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NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,

January 2, 1996

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT

DEC 13 1995

SAN FRANCISCO
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AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 845 Sutter #509, 205 & 411 Q001-22R, -26R & -27R

Three tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

B. 4093 - 17th St. Q001-21R

The tenant appeals the denial of a petition alleging a substantial decrease in housing services.

C. 1024 Cole St. Q001-27A

The landlord appeals the decision partially granting capital improvement passthroughs and rent increases based on comparable rents.

D. 3459 Divisadero St. #106 & 101 Q001-23 & -24R

One tenant appeals the decision granting rent increases based on increased operating expenses and capital improvement costs on the grounds of financial hardship; another tenant appeals the denial of a petition alleging decreased housing services.

E. 330 Alemany Blvd. #5 Q001-28A

The landlord appeals the remand decision upholding rent reductions based on decreased housing services.

F. 59 Sycamore St. Q001-25R

The tenant appeals the decision on the grounds that the rent reductions granted due to decreased housing services are inadequate.

G. 686 Valencia St. #3 Q001-28R

The tenant appeals the decision partially granting claims of unlawful rent increases and decreased housing services.

H. 32 Lundy Lane #1 Q001-29A

The landlord appeals the decision granting rent reductions due to decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Hudson and Boesch v. S.F. Rent Board (Superior Court Case Nos. 965026 and 965461 - 99 Jersey St.): Motions pursuant to Judgments entered on December 1, 1995

B. Costa-Hawkins Bill: AB 1164

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, January 2, 1996 at 6:00 p.m. at 25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JAN 16 1996

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I. Call to Order

President L. Becker called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: L. Becker; Gruber; Hayden; How; Lightner;
Marshall; Nash; Wasserman.
Commissioners not Present: B. Becker.
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of November 28 and December 5, 1995.
(Marshall/Gruber: 5-0)

IV. Consideration of Appeals

A. 845 Sutter St. #509, 205 & 411 Q001-22R, -26R & -27R

Consideration of these appeals was postponed to the January 16, 1996 meeting.

B. 686 Valencia St. #3 Q001-28R

The tenant's petition alleging decreases in housing services and unlawful increases in rent was granted, in part. The landlords were found liable to the tenant in the amount of \$495.00 due to substandard conditions in the unit and a rent increase based on the presence of an additional occupant in the unit effective November 1994 was found to be null and void. No determination was made as to the propriety of the tenant's rent history prior to that time because of a lack of supporting documentation or evidence. On appeal, the tenant alleges that he has rent receipts for all of the years he has resided in the unit, which the hearing officer failed to ask that he furnish.

MSC: To accept the appeal and remand the case for a hearing on
the issue of the tenant's rent history.
(Hayden/Marshall: 5-0)

C. 3459 Divisadero St. #106 & 101

Q001-23R & -24R

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses for ten units was granted, in part, by the hearing officer. The tenant in unit #101 appeals the decision on the basis of financial hardship. The tenant in unit #106 also filed a petition alleging decreased housing services. This petition was denied because the hearing officer found that the restriction on the tenant's use of the garage roof was de minimus; that the use of a washer and dryer in the unit was not a housing service offered by the landlord; and that the landlord had not been put on notice of the problem with ants in the unit prior to the hearing. The tenant appeals, asserting that: the "anti-speculation clause" [Rules and Regulations Section 6.10(f)] should preclude any increase due to the transfer of ownership of the property; many of the listed expenses constituted a transfer of partnership funds, rather than "actual costs incurred by the landlord"; and the frequency of his use of the garage roof/patio area should not be determinative of whether its loss constituted a substantial decrease in services.

MSC: To accept the appeal of the tenant in unit #101 and remand the case for a hearing on the tenant's claim of financial hardship.
(Lightner/Marshall: 5-0)

MSC: To deny the appeal of the tenant in unit #106.
(Hayden/Gruber: 5-0)

D. 4093 - 17th St.

Q001-21R

The tenant's petition alleging substantial decreases in housing services was denied because the hearing officer found that: the tenant had failed to prove his actual share of the rent payments furnished to the landlord; the tenant had failed to provide access in order for repairs to be effectuated; and several of the conditions failed to rise to a level of substantiality such as to warrant a reduction in rent.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. 1024 Cole St.

Q001-27A

The landlord's petition for certification of capital improvement costs and for rent increases based on comparable rents was granted, in part. The hearing officer denied certification of the costs of a newly constructed rear deck because she found that it did not benefit the tenants in the subject unit, who preferred the use of the back yard for gardening purposes. An increase in rent from \$720.84 to \$827.48 was granted because the hearing officer found that the rent was low at the time the unit came under the jurisdiction of the Ordinance. The apartment was originally rented to a single parent with two small children. The children are now adults who continue to reside in the unit, and it was established that the rent was less than it would have been had the landlord availed herself of all allowable increases under the Ordinance. On appeal, the landlord asserts that the tenants' purported interest

in gardening is not true; that there are several factual errors in the decision; and that the rent for the unit is still significantly below "market."

MSC: To deny the appeal. (Marshall/Hayden: 4-1; Lightner dissenting)

E. 330 Alemany Blvd. #5

Q001-28A

The tenant's petition alleging several substantial decreases in housing services was granted only as to a mildew problem in the unit, for which the landlord was found liable to the tenant in the amount of \$35.00 per month (\$350.00). On appeal, the landlord asserts that the mildew problem was abated in May of 1995 and that he has no control over the tenant's ventilation of her apartment.

MSC: To deny the appeal except for a Technical Correction to the Decision of Hearing Officer on page 7, line 20, to reflect the fact that the duration of the rent reduction is 10, rather than 8, months. (Marshall/Hayden: 4-1; Gruber dissenting)

F. 59 Sycamore St.

Q001-25R

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$1,886.25 due to serious habitability defects on the premises. The tenant appeals the portion of the decision granting rent reductions in the amount of \$50.00 per month since the inception of the tenancy due to the lack of a working heat source in the unit, alleging that this amount is wholly inadequate to compensate for the discomfort and inconvenience that this condition has caused.

MSC: To deny the appeal. (Lightner/Gruber: 3-2; L. Becker, Marshall dissenting)

G. 32 Lundy Lane #1

Q001-29A

The tenant's petition alleging decreased housing services was granted, in part, by the hearing officer and the landlord was found liable to the tenant in the amount of \$232.06 due to habitability defects on the premises. The landlord failed to appear at the hearing, but on appeal alleges that the tenant's complaints were moot because she vacated the apartment for consideration and that the tenant knew the condition of the unit at the inception of the tenancy.

MSC: To deny the appeal. (Marshall/Hayden: 5-0)

VI. Communications

The Commissioners received a copy of the Board Decision on Third Appeal in the case at 2350-52 Polk Street (P001-63A), which was approved and signed by President Becker.

VII. Director's Report

Executive Director Joe Grubb reported as follows:

A. The Rent Board is now on the Internet and can be accessed on the City's Home Page or at <http://ci.sf.ca.us/rentbd/>

B. The allowable annual increase for the period March 1, 1996 through February 28, 1997 is 1%.

C. Mr. Grubb requested the Board's authorization to go before the Board of Supervisors with a Supplemental Budget Request in the amount of \$66,000 to pay for the cost of translation and recording of the full text of the automated information system in Spanish and Chinese, completion of development of the new database and retention of an additional temporary hearing officer position for a three-month period to help reduce the current backlog of cases. It was the consensus of the Commissioners present to approve the request, except that the Board recommended that the hearing officer position be for six months rather than three.

VIII. Old Business

A. Hudson and Boesch v. S.F. Rent Board (Superior Court Case Nos. 965026 and 965461 - 99 Jersey St.): This matter was continued to the meeting on January 16, 1996.

B. Costa Bill (AB 1164): The Board discussed issues related to the implementation of this legislation, particularly regarding the necessity of conforming certain provisions of Rules and Regulations Section 6.14. This issue was continued to the meeting on January 30th, which will be devoted exclusively to discussion of the Costa Bill. Commissioner Lightner will work on a draft revision to Rules Section 6.14.

IX. Calendar Items

January 9, 1996 - NO MEETING

January 16, 1996

8 appeal considerations

Executive Session: Litigation

Old Business: Costa-Hawkins Bill (AB 1164)

X. Adjournment

President L. Becker adjourned the meeting at 8:45 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

January 16, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

JAN 16 1996

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Executive Session

Litigation - Government Code Section 54956.9(a)

Hislop and Collier v. S.F. Rent Board (Superior Court Case
No. 961-976)

Hudson and Boesch v. S.F. Rent Board (Superior Court Case
Nos. 965026 and 965461 - 99 Jersey St.): Motions pursuant to
Judgments entered on December 1, 1995

VI. Consideration of Appeals

- A. 845 Sutter St. #205, 411, Q001-26 & -27R;
203 & 209 Q001-29 & -30R

Four tenants appeal the decision certifying capital improvement
costs on the grounds of financial hardship.

- B. 440 Capp St. Q001-31R

The tenant appeals the remand decision, alleging that the rent
reductions granted due to decreased housing services are
insufficient.

- C. 205 - 9th St. #18 Q001-30A

The landlord appeals the decision granting a claim of decreased
housing services.

D. 860 Geary Blvd. #501 Q001-32R

The tenant appeals the dismissal of a petition alleging decreased housing services.

E. 851 California St. Q001-33R

The tenant appeals the dismissal of a decrease in housing services petition.

F. 4245 Judah St. #6 & #9 Q001-31A

The landlord appeals a decision granting rent reductions to two tenants due to the lack of access to parking spaces.

G. 1695 Beach St. #102 Q001-34R

The tenant appeals the decision denying a claim of unlawful rent increases.

H. 1800 Broadway #602 Q001-32A

The landlord appeals the decision granting rent reductions due to decreased housing services.

VII. Communications

VIII. Director's Report

IX. Old Business

Costa-Hawkins Bill: AB 1164

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, January 16, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DE

JAN 31 1996

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I. Call to Order

President L. Becker called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present:	L. Becker; Hayden; Nash; Wasserman.
Commissioners not Present:	B. Becker; How.
Staff Present:	Grubb; Wolf.

Commissioners Lightner and Marshall appeared on the record at 5:37 p.m.; Commissioner Gruber arrived at 6:35 p.m. Commissioner Marshall left the meeting at 7:55 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 2, 1996 with the following correction: regarding the appeal concerning 686 Valencia St. #3 (Q001-28R), the last sentence should read: "On appeal, the tenant, who has a mental disability, alleges that he has rent receipts for all of the years he has resided in the unit."
(Hayden/Lightner: 5-0)

IV. Consideration of Appeals

A. 845 Sutter St. #205, 411, 203 & 209	Q001-26 & -27R; Q001-29 & -30R
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The tenant's appeal was filed one day late because he believed that his attorney would be filing an appeal on his behalf.

MSC: To find good cause for the late filing of the appeal; tenant's counsel is advised that future conduct of this type could have prejudicial consequences for her clients.
(Marshall/Hayden: 5-0)

The landlord's petition for rent increases based on increased operating expenses and certification of capital improvement costs was granted, in part, by the hearing officer. Four tenants appealed the decision on the grounds of financial hardship. Prior to the meeting, three of the tenants reached a settlement with the landlord and withdrew their appeals.

MSC: To accept the appeal of Anthony Aldequer in unit #205 (Q001-26R) and remand the case for a hearing on the tenant's claim of financial hardship. (Hayden/Marshall: 5-0)

B. 440 Capp St.

Q001-31R

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,823.00 due to serious habitability defects on the premises. A prior Decision of Hearing Officer between these parties was voided because the rent reductions granted to the tenant were discharged as part of a bankruptcy proceeding brought by the landlord. Therefore, the current rent reductions granted are only for the period commencing after the order for relief was entered, or April 19, 1995. On appeal, the tenant asserts that the rent reductions granted and the current reduced base rent amount are not sufficiently substantial to compensate him for the condition of the premises.

MSF: To accept the tenant's appeal for Board hearing on the issue of the sufficiency of the rent reductions granted by the hearing officer. (Marshall/L. Becker: 2-3; Hayden, Nash, Lightner dissenting)

MSC: To deny the appeal with the suggestion that problems identified in the Notice of Violation not raised in the petition, and therefore not addressed in the Decision of Hearing Officer, be the subject of a new petition. (Lightner/Hayden: 3-2; L. Becker, Marshall dissenting)

C. 205 - 9th St. #18

Q001-30A

The property at issue was in receivership at the time of the hearing on the tenant's petition. Three months after the issuance of the Decision of Hearing Officer, an attorney representing the landlord wrote a letter requesting an appeal form. Two and one-half months later, the landlord filed the appeal. He states that his extreme lateness in filing is due to the fact that he is going through a divorce and has filed for bankruptcy. Staff contacted the landlord and requested that documentation of the bankruptcy filing be provided. The landlord stated that he would turn the matter over to the attorney handling his bankruptcy. It was the consensus of the Board to continue this matter to the next meeting in order to provide the landlord with a chance to furnish the requested information.

D. 1695 Beach St. #102

Q001-34R

The tenant's petition alleging an unlawful increase in rent was denied. In 1988, the parties entered into a lease agreement for the period November 15, 1988 through November 15, 1989 at a rent of \$1,425.00 plus \$75.00 for the garage. The lease agreement states that "if the tenant will stay a second year, we agree to keep the rent at \$1,425.00 plus garage." The landlords contend that the

agreement meant that the rent would not be raised during the second year of the tenancy, but that they never intended to permanently waive their right to bank the allowable annual increase for the second year and impose it at some later date. The hearing officer found that without a specific waiver of their banking rights, the landlords were not enjoined from imposing the increase. On appeal, the tenant contends that the language is clear about the rent being kept at the lower level; that to preserve their banking rights, the lease should have contained a provision regarding banking; and that the landlords engaged in a fraud by deliberately omitting any such information.

MSC: To deny the appeal. (Lightner/Hayden: 3-2; L. Becker, Marshall dissenting)

E. 1800 Broadway #602

Q001-32A

The tenants' petition alleging a substantial decrease in housing services due to elevator malfunctions was granted and the landlord was found liable to the tenants in the amount of \$795.00. The landlord appeals, alleging that: the tenants were allowed to raise issues and time periods that were outside of the scope of the petition; the hearing officer exhibited bias toward the tenants; and the tenants only filed their petition in response to having been given a rent increase for the first time in three years.

MSC: To deny the appeal. (Marshall/L. Becker: 4-1; Gruber dissenting)

V. Executive Session

The Board went into Executive Session pursuant to Government Code Section 54956.9(a) with Deputy City Attorney Mariam Morley to discuss the cases of Hislop and Collier v. S.F. Rent Board (Superior Court Case No. 961-976) and Hudson and Boesch v. S.F. Rent Board (Superior Court Case Nos. 965026 and 965461 - 99 Jersey St.) from approximately 6:45 p.m. to 7:55 p.m. The Board had decided at their meeting on December 5, 1995 not to pursue an appeal regarding the 99 Jersey Street cases. After returning to Open Session, the Board disclosed that the following motions were made and passed in Executive Session:

MSC: That no appeal shall be pursued by the S.F. Rent Board in the case of Hislop and Collier v. S.F. Rent Board (Superior Court Case No. 961-976). (Gruber/L. Becker: 4-0; L. Becker, Gruber, Hayden and Marshall voting aye; Lightner abstaining)

As to 99 Jersey Street, Case No. 965026 (Heat Inadequacy):

MSC: Pursuant to the writ of mandate issued by the San Francisco Superior Court on December 1, 1995 in Case No. 965026, the Decisions of the San Francisco Rent Board Hearing Officer dated May 25, 1994 and June 24, 1994 in Rent

Board case nos. N006-54T through N006-60T, N006-70T through N006-77T, O001-59T, O004-59T, and O004-66T through O004-68T are set aside. The matter is remanded to the hearing officer for consideration, upon the record or after a hearing, of the August 2, 1994 deposition of David Gogna and to determine the amounts owed, if any.
(Hayden/Gruber: 5-0)

As to 99 Jersey Street, Case No. 965461 (Heat Conversion):

MSC: Pursuant to the writ of mandate issued by the San Francisco Superior Court on December 1, 1995 in Case No. 965461, the Decision of the San Francisco Rent Board in Rent Board Case Nos. N003-77T through N003-79T, Appeal No. O001-45A, is set aside. The matter is remanded to the hearing officer with instructions to issue an order denying the three tenant petitions and to determine the amounts the tenants will owe to the landlords, if any, as a result of tenants' reliance on the December 23, 1993 Decision of Hearing Officer and the July 19, 1994 Board Decision on Appeal.
(Lightner/Gruber: 5-0)

IV. Consideration of Appeals (cont.)

F. 860 Geary Blvd. #501

Q001-32R

The tenant's petition alleging decreased housing services was dismissed because of his failure to appear at the properly noticed hearing. On appeal, the tenant states that he was in Arizona because his sister has cancer and he was helping to care for her children. He maintains that the problems that led to the filing of the petition have worsened.

MSC: To deny the appeal without prejudice to the filing of a new petition if the problems still exist. (Lightner/Gruber: 5-0)

G. 851 California St.

Q001-33R

The tenant's appeal was filed four months late due to her having been traveling abroad.

MSC: To find no good cause for the late filing of the appeal.
(Gruber/Lightner: 4-0)

H. 4245 Judah St. #6 & #9

Q001-31A

Two tenant petitions alleging a substantial decrease in housing services because of limitations on access to parking spaces were granted, and the landlord was found liable to each tenant in the amount of \$1,100.00 or \$50.00 per month. The landlord appeals, asserting that prior to the hearing, the tenants

in the building who were the major cause of the problem had been evicted, the problem therefore had been greatly ameliorated, and the amount granted should be reduced accordingly. The landlord also believes that he should not be penalized due to the late issuance of the decision, and asserts that the reduced amount of rental income will present a hardship for him.

It was the consensus of the Board to continue consideration of this case to the next meeting in order for staff to contact the landlord and see if he wishes to pursue a hardship appeal.

VI. Remarks from the Public

Robert Pender of the Tenants' Network informed the Commissioners that the next meeting will be on January 17, 1996 at 5:30 p.m.; that San Francisco tenants will be holding the new mayor to the pledges made in the "Tenants' Bill of Rights"; and that he is a candidate for the Democratic Central Committee from the 12th Assembly District.

VII. Calendar Items

January 23 & 30, 1996 - NO MEETINGS

February 6, 1996

3 appeal considerations (2 cont. from 1/16/96)

Old Business: Costa-Hawkins Bill (AB 1164)

New Business:

Proposed Procedural and Rules Changes regarding Proof of Service,
Mailing of Tenant Petitions and Administrative Dismissals

VIII. Adjournment

President L. Becker adjourned the meeting at 8:15 p.m.



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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(11/95) lk/comm/accomtg



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

February 6, 1996

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

JAN 31 1996

SAN FRANCISCO
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AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 205 - 9th St. #18

Q001-30A

(cont. from 1/16/96)

The landlord appeals the decision granting a claim of decreased housing services.

B. 4245 Judah St. #6 & #9

Q001-31A

(cont. from 1/16/96)

The landlord appeals a decision granting rent reductions to two tenants due to the lack of access to parking spaces.

C. 50 Palm Ave. #2

Q001-33A

The landlord appeals the decision applying the "6-Month Rule" and therefore denying the passthrough of capital improvement costs to a tenancy of slightly more than 6 months' duration.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- Costa-Hawkins Bill: AB 1164
- IV. Remarks from the Public (cont.)

IX. New Business

Proposed Procedural and Rules and Regulations Changes
Regarding Proof of Service, Mailing of Tenant Petitions and
Administrative Dismissals

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, February 6, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

FEB 12 1996

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I. Call to Order

President L. Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:	L. Becker; Hayden; Marshall; Nash.
Commissioners not Present:	B. Becker; Gruber; Lightner; Wasserman.
Staff Present:	Grubb; Wolf.

Commissioner How appeared on the record at 6:12 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 16, 1996.
(Marshall/Hayden: 4-0)

IV. Consideration of Appeals

A. 205 - 9th St. #18

Q001-30A
(cont. from 1/16/96)

The property at issue was in receivership at the time of the hearing on the tenant's petition. Three months after the issuance of the Decision of Hearing Officer, an attorney representing the landlord wrote a letter requesting an appeal form. Two and one-half months later, the landlord filed the appeal. He stated that his extreme lateness in filing is due to the fact that he is going through a divorce and has filed for bankruptcy. Staff contacted the landlord and requested that documentation of the bankruptcy filing be provided. The landlord stated that he would turn the matter over to the attorney handling his bankruptcy. It was the consensus of the Board to continue this matter to the next meeting in order to provide the landlord with a chance to furnish the requested information, which he failed to do.

MSC: To find no good cause for the late filing of the appeal.
The Decision of Hearing Officer is therefore final.
(Hayden/Marshall: 4-0)

B. 4245 Judah St. #6 & #9

Q001-31A
(cont. from 1/16/96)

Two tenant petitions alleging a substantial decrease in housing services because of limitations on access to parking spaces were granted, and the landlord was found liable to each tenant in the amount of \$1,100.00 or \$50.00 per month. The landlord appealed, asserting that prior to the hearing, the tenants in the building who were the major cause of the problem had been evicted, the problem therefore had been greatly ameliorated, and the amount granted should be reduced accordingly. The landlord also believes that he should not be penalized due to the late issuance of the decision, and asserts that the reduced amount of rental income will present a hardship for him. This matter was continued from the meeting on January 16, 1996 in order to staff to contact the landlord and see if he wished to pursue a hardship appeal, which he did not.

MSC: To deny the appeal. (Marshall/Hayden: 4-0)

C. 50 Palm Ave. #2

Q001-33A

The landlord's petition for certification of capital improvement costs was granted, in part, by the hearing officer. The costs of exterior painting of the building were disallowed for one unit because of the 6-month limitation contained in Rules and Regulations Section 7.12(b). On appeal, the landlord argues that the "6-Month Rule" should not apply, because the hearing officer relied on the date that the contractor's proposal for the work was dated, and not the date that the work on the project commenced.

MSF: To deny the appeal. (Marshall/L. Becker: 2-2; Hayden, Nash dissenting)

V. Communications

The Commissioners received the following communications:

- A. The monthly workload statistics for November and December, 1995.
- B. A copy of Fact Sheet #6, "Tenant Petition Preparation Tips".

VI. Old Business

The Board had anticipated a discussion of the Costa-Hawkins Bill (AB 1164), specifically possible amendments to Section 6.14 of the Rules and Regulations in order to conform that section to the new requirements of State law. In the absence of draft language, this issue was continued to the next meeting.

VII. Remarks from the Public

Robert Pender of the Tenants' Network announced a meeting of the Campaign for Renters' Rights in East Palo Alto on Saturday, February 10th, at 10:30 a.m. A landlord in the audience inquired as to the Board's policies regarding rent increase limitations on garages in residential buildings.

VIII. New Business

The Commissioners present expressed their support for suggested changes to Rent Board procedures pertaining to Proof of Service, the mailing of tenant petitions and Administrative Dismissals suggested by Senior Hearing Officer Sandra Gartzman. Staff will begin drafting necessary changes to the Rules and Regulations for the Board's consideration at a future meeting.

IV. Consideration of Appeals (cont.)

C. 50 Palm Ave. #2

Q001-33A (cont.)

Due to the arrival of Commissioner How at the meeting, this matter was reconsidered. After discussion, the Board passed the following motion:

MSC: To accept the landlord's appeal and remand the case to the hearing officer on the record with instructions to determine the applicability of Rules and Regulations Section 7.12(b) based on the date that work on the project commenced, and not the date that the contract for the work was signed.
(How/Hayden: 3-2; L. Becker, Marshall dissenting)

IX. Calendar Items

February 13, 1996 - NO MEETING

February 20, 1996

1 appeal consideration

Old Business:

- A. Costa-Hawkins Bill (AB 1164)
- B. Proposed Procedural and Rules Changes regarding Proof of Service, Mailing of Tenant Petitions and Administrative Dismissals

X. Adjournment

President L. Becker adjourned the meeting at 6:45 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

February 20, 1996

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT.

FEB 12 1996

SAN FRANCISCO
PUBLIC LIBRARY

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
 - A. 3032 Steiner St. Q001-35R
The tenant appeals the Decision on Remand denying her claim of financial hardship.
- VI. Communications
- VII. Director's Report
- VIII. Old Business
 - A. Costa-Hawkins Bill: AB 1164
 - B. Proposed Procedural and Rules and Regulations Changes Regarding Proof of Service, Mailing of Tenant Petitions and Administrative Dismissals
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



ACCESSIBLE MEETING POLICY

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(11/95) lk/comm/accmgtg

SF
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2/20/96

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, February 20, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

FEB 28 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President L. Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:	L. Becker; Gruber; Hayden; Lightner; Marshall; Nash.
Commissioners not Present:	B. Becker; How; Wasserman.
Staff Present:	Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of February 6, 1996.
(Hayden/Marshall: 4-0)

IV. Consideration of Appeals

A. 3032 Steiner St.

Q001-35R

The landlord's petition for certification of capital improvement costs was granted, resulting in a monthly passthrough of \$275.77 (\$151.08 after imposition of the 10% "cap"). The tenant filed an appeal on the grounds of financial hardship, which was accepted by the Board and remanded to the hearing officer. In the Decision on Remand, the hearing officer denies the tenant's appeal, finding that she failed to carry her burden of proof by not substantiating her own and the co-occupants of the unit's income and expenses. On appeal of the Decision on Remand, the tenant produces additional documentation regarding her income and resources. Further, she argues that she and her room-mates are not jointly and severally liable for the rent. Rather, she claims to be the master tenant of the unit, and therefore solely liable for payment of the rent, including the capital improvement passthrough.

MSC: To deny the tenant's appeal but to make the effective date for imposition of the capital improvement passthrough March 1, 1996; no arrearages are therefore owing from the tenant to the landlord. (Gruber/Lightner: 5-0)

V. Communications

The Commissioners received the following communications:

A. An Invitation from Mayor Brown to an Orientation Meeting for members of City Boards and Commissions to be held on Saturday, February 24, 1996, at 10:00 a.m.

B. A copy of the proposed departmental budget, which is in an amount 4.5% over the current year's budget, primarily due to salary increases which resulted from collective bargaining.

VI. Director's Report

Executive Director Grubb went over the proposed budget with the Commissioners, who gave it their approval. He also announced that the capital improvement imputed interest rate as of March 1, 1996 will be 5.5% for seven year work and 5.6% for costs amortized over ten years.

VII. Old Business

The Commissioners discussed possible amendments to Rules and Regulations Section 6.14 in order to conform that section to the new requirements of state law mandated by the Costa-Hawkins Bill (AB 1164), which took effect on January 1, 1996. Commissioners Lightner and Marshall distributed draft revisions of Rules Section 6.14 for discussion. Much of the dialogue centered on the extent to which Section 6.14 must be modified in order to comply with current state law; and whether the bare minimum to effectuate compliance will be the Board's goal, or whether more sweeping revisions to effect policy changes and clarification will ensue.

VIII. Calendar Items

February 27, 1996 - NO MEETING

March 5, 1996

4 appeal considerations

Old Business: Costa-Hawkins Bill (AB 1164)

IX. Adjournment

President L. Becker adjourned the meeting at 7:15 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

March 5, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

FEB 28 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 4041 Irving St. Q001-36R

The tenants appeal the second remand decision denying their claim of decreased housing services due to lack of jurisdiction.

B. 941 Capp St. Q001-34A

The landlord appeals a remand decision upholding rent reductions due to decreased housing services.

C. 1170 & 1172 Florida St. Q001-35A

The landlord appeals a decision granting a claim of decreased housing services, claiming that the Rent Board has no jurisdiction because the tenants filed the petition after they had vacated the premises.

D. 2914 San Bruno Ave. Q001-37R

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to provide requested information regarding a simultaneous Unlawful Detainer action.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Costa-Hawkins Bill: AB 1164

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



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(11/95) lk/comm/accmgtg



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, March 5, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

MAR 13 1996

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President L. Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: L. Becker; Hayden; Marshall; Nash;
Wasserman.

Commissioners not Present: B. Becker; How; Lightner.

Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 20, 1996.
(Hayden/Marshall: 4-0)

IV. Consideration of Appeals

A. 4041 Irving St.

Q001-36R

The tenants' petition alleging a substantial decrease in housing services was denied by the Hearing Officer upon second remand because the unit that the tenants reside in was still under construction and not habitable as of June 13, 1979. Therefore, the property was found to be exempt as new construction under Section 37.2(p)(5) of the Ordinance. On further appeal, the tenants maintain that the landlord failed to meet the burden of proof because the original Certificate of Occupancy, which was destroyed by fire, was not furnished.

MSC: To deny the appeal. (Hayden/Marshall: 4-0)

B. 941 Capp St.

Q001-34A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$1,740.00 due to the loss of storage and garage spaces. The landlord appealed the decision, asserting that the value of services that had previously

been provided by the tenant should be offset against the amount of the rent reductions granted. The landlord's appeal was accepted and the case was remanded to the hearing officer on the record for clarification on the issue of valuation of services previously provided by the tenant. In the remand decision, the hearing officer upholds the prior decision, finding that the use of the storage and garage spaces was not provided solely in exchange for the tenant's services, and that additional consideration was paid by the tenant. The landlord appeals the Decision on Remand, asserting that the tenant continues to utilize one garage and one of the storage spaces; and that the tenant only paid \$900.00 in rent for the months of July, August and September, 1995, rather than the \$970.00 stated in the hearing officer's decision.

MSC: To deny the appeal; the parties shall make any necessary adjustments as to sums owing, if any.
(Marshall/Gruber: 4-0)

C. 1170 & 1172 Florida St.

Q001-35A

Two tenant petitions alleging substantial decreases in housing services were granted, in part, and the landlord was found liable to the tenants in the amounts of \$2,700.00 and \$3,832.35 due to serious rodent and cockroach infestations in the units. On appeal, the landlord asserts that the Board has no jurisdiction over these matters, as the tenants' petitions were filed seven months after they had vacated the subject units; and that the one-year limitation contained in Rules Section 10.10(c) should apply because the tenants failed to prove extraordinary circumstances or long-term verifiable notice to the landlord, claiming that the written notices that they had given to the landlord were destroyed in the fire that necessitated their having vacated the premises.

MSC: To deny the appeal. (Hayden/Marshall: 4-0)

D. 2914 San Bruno Ave.

Q001-37R

The tenant's petition alleging substantial decreases in housing services was dismissed as frivolous by the hearing officer because the tenant failed to provide the Rent Board with a copy of the judgment in a pending unlawful detainer lawsuit, despite repeated contacts by Rent Board staff, and her agreement to do so. On appeal, the tenant alleges that "family problems" prevented her from furnishing the requested court documents in a timely fashion. A copy of the Settlement Agreement reached with the landlord is submitted with the appeal.

MSC: To deny the appeal. (Gruber/Hayden: 4-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A letter from Dr. Jean Lust regarding Rules and Regulations Section 6.14.
- B. The office workload statistics for the month of January.
- C. A letter from Teresa Wellborn objecting to the policy of allowing only the imputed interest rate on capital improvement costs when the source of the funds is a variable rate loan and, therefore, no actual rate of interest is established.

VI. Director's Report

Executive Director Grubb reported as follows:

- A. Mayor Brown wishes to be informed of any occasions when the Commissioners leave the State, and asks that they furnish a phone number where they can be reached.
- B. The Commissioners' Statement of Economic Interests are due by April 1st, and are subject to a \$10 per day penalty for late filing.
- C. The Department's Supplemental Budget Request will be going before the Budget Committee of the Board of Supervisors on March 13th.
- D. Mr. Grubb provided the Commissioners with an accounting of their per diem reimbursement totals for last year as their 1099 forms have not yet been distributed.

VII. Old Business

The Commissioners continued their discussion of possible amendments to Rules and Regulations Section 6.14 in order to conform that section to the new requirements of state law mandated by the Costa-Hawkins Bill (AB 1164), which took effect on January 1, 1996. Commissioner Hayden distributed a draft proposal which incorporates some of the thinking and language contained in drafts previously distributed by Commissioners Marshall and Lightner. Discussion of this issue will continue at the meeting on March 19, 1996.

VIII. Remarks from the Public

Robert Pender of the Tenants' Network addressed the Commissioners regarding Proposition 199 on the March 26th ballot, which would remove rent control protections for residents of mobile home parks. He also reminded the Board that he is a candidate for the Democratic Central Committee. Miguel Wooding of the Tenants' Union suggested that the Board use the passage of Costa-Hawkins as an opportunity to strengthen Rules Section 6.14, in that acceptance of rent now constitutes a waiver, except as specified pursuant to the legislation, whereas Section 6.14 as currently written requires the passage of 60 days before waiver occurs.

IX. Calendar Items

March 12, 1996 - NO MEETING

March 19, 1996

8 appeal considerations

Old Business: Costa-Hawkins Bill (AB 1164)

X. Adjournment

President L. Becker adjourned the meeting at 7:15 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 5:30 p.m.,

March 19, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

MAR 13 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 3374 - 21st St. Q001-46R & Q001-36A

The tenant and landlord appeal a decision partially granting claims of decreased housing services.

B. 19 Noe St., Apt. B Q001-37A

The landlord appeals the decision granting a claim of unlawful rent increases.

C. 241-243 Collingwood St. Q001-38A

The landlord of a Proposition I Affected Unit appeals the decision partially granting a petition based on increased operating expenses.

D. 935 Kearny St. #82 Q001-39A

The landlord appeals the decision granting rent reductions due to decreased housing services and determining rent overpayments, but denying a claim of failure to repair.

E. 99 Jersey St. #1, 4, 6, 8, 9, 11, Q001-40A & Q001-38R
14 & 16 thru - 45R

The landlord and eight tenants appeal a decision partially granting a petition for certification of capital improvement costs.

F. 2011 Sacramento St. #5 Q001-41A

The landlord appeals a decision granting rent reductions due to decreased housing services.

G. 2286 Jackson St. #4

Q001-47R

The tenant appeals the decision denying claims of decreased housing services, failure to repair and unlawful rent increases.

H. 124 Pfeiffer St.

Q001-48R; Q001-42A

The landlord and tenant appeal a decision granting a rent increase due to increased operating expenses and determining rent overpayments.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Costa-Hawkins Bill: AB 1164

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, March 19, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

MAR 27 1996

SAN FRANCISCO
PUBLIC LIBRARY**I. Call to Order**

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Becker; Bierley; Gruber; Lightner; Marshall;
Mosser; Murphy; Palma; Wasserman.
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of March 5, 1996.
(Marshall/Gruber: 4-0)

IV. Consideration of Appeals**A. 19 Noe St., Apt. B**

Q001-37A

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$10,017.75 due to PG&E passthroughs being incorrectly calculated and improperly included in base rent for purposes of calculating annual increases. On appeal, the landlord asserts that the wrongful increases were de minimus and the result of a procedural error by the prior owner, which has resulted in a windfall to the tenant; that the equitable doctrine of laches should apply to bar the tenant's recovery because the tenant knew of the existence of the Rent Board as far back as 1988 but failed to assert his rights; and that the hearing officer is mistaken in finding that the only harm to the landlord is economic.

MSC: To accept the landlord's appeal for Board hearing. The landlord is instructed to bring a copy of the Purchase Agreement for the property to the hearing; the hearing officer will provide a chart showing the exact amount of rent overpayments.
(Lightner/Gruber: 3-2; Becker, Palma dissenting)

B. 99 Jersey St. #1, 4, 6, 8, 9, 11, 14 & 16 Q001-40A;
Q001-38R thru -45R

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. The landlords appeal the decision as to unit numbers 1, 4, 6 and 14, asserting that: because of a typographical error, the tenants' move-in dates were incorrectly entered, and the 6-month Rule contained in Rules Section 7.12(b) should not bar these tenants' eligibility for the passthrough of roofing insulation costs; and a Technical Correction to the decision is necessary to reflect the fact that passthroughs approved in a prior case were not imposed to the tenants in unit numbers 8, 9 and 16. The tenants appeal the decision on the grounds that the landlord's representative did not have written authorization, and therefore the petition should have been dismissed in its entirety; and, since the tenants did not receive copies of the landlords' amended petitions, due process requires that the increased amounts noticed in those petitions should not be granted.

MSC: To accept the landlords' and tenants' appeals as follows: to remand the case to the hearing officer for any necessary technical and numerical corrections on the record, if possible; a hearing will be held only if necessary. On the issue of the roofing insulation costs, the hearing officer will determine whether or not a petition was filed to pass through the costs of this item to the tenants of unit numbers 1, 4, 6 and 14; if not, then no passthrough of these costs will be allowed without the landlord filing a new petition. If these costs were petitioned for passthrough to the tenants of these units, then a hearing will be scheduled and copies of both of the landlords' amended petitions will be provided to the tenants with the Notice of Hearing. The appeals are denied as to all other issues.
(Gruber/Lightner: 5-0)

C. 2286 Jackson St. #4 Q001-47R

The tenant's appeal was filed one day late because the tenant believed that it was sufficient to have mailed the appeal and have it postmarked within the 15-day mandatory filing period.

MSC: To find good cause for the late filing of the appeal.
(Gruber/Becker: 5-0)

The tenant's petition alleging decreased housing services was denied either because repairs were effectuated by the landlord in a timely fashion, the tenant failed to give notices that the repairs had not remedied the problem originally complained of and/or the problems were not deemed sufficiently substantial to warrant reductions in rent. A claim of unlawful rent increase was rendered moot by the tenant having vacated the premises. The tenant prevailed on the issue of the landlord's failure to repair due to the existence of a leak in the unit, for which the landlord was cited by the Department of Building Inspection. The tenant

appeals, asserting that the hearing officer legally and factually erred in not finding that the tenant had suffered substantially decreased housing services as a result of the landlord and managers' unwillingness and refusal to respond to the tenant's reasonable requests; that the burden of proof is extremely onerous; that the property manager lied under oath; and that the hearing officer ignored or lost the tenant's unrebutted documentary evidence.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

D. 3374 - 21st St.

Q001-46R & Q001-36A

The tenant filed a petition alleging thirty-three separate items of decreased housing services. The hearing officer found four of the claims to be substantial, and granted rent reductions totaling \$2,760.00 due to stained and mildewed walls and ceilings, a deteriorated bathroom, windows in disrepair and a malfunctioning freezer. The landlord filed an appeal, which was withdrawn prior to the Board meeting. The tenant also filed an appeal, asserting: that the amount granted for the stained walls and ceilings and mildew condition is inadequate because a substantial amount of water leaks into the unit whenever there is heavy rain; that there are many factual errors in the decision; that the Department of Building Inspection failed to cite the landlord for security problems on the premises because they "do not deal with security issues"; and that she and her room-mate are being constructively evicted from the premises due to the conditions complained of in her petition.

MSC: To deny the tenant's appeal. (Gruber/Lightner: 5-0)

E. 241-243 Collingwood St.

Q001-38A

The landlord of 3 Proposition I Affected Units under Ordinance Section 37.12 filed a petition for rent increases based on increased operating expenses. The hearing officer granted increases in the amount of 3.3%, rather than the maximum allowable 7%, because the landlord could not fulfill the burden of proving several categories of expenses due to a lack of documentation from the prior owner. Banked increases from an alleged period of exemption due to owner-occupancy were also disallowed. On appeal, the landlord asserts that the hearing officer made multiple factual and calculation errors in the decision; that he should not be penalized due to the insurance company's refusal to cooperate, the loss of pertinent records and the death of the prior owner; and capital improvement costs incorrectly categorized as repairs could be separated out, so that an increase would be found warranted for this category.

MSC: To accept the landlord's appeal and remand the case to the hearing officer for any necessary technical corrections, as well as for a determination regarding banked increases available to the landlord because of a mistake in the decision as to the date of death of the prior owner; the appeal is denied as to all other issues. (Palma/Marshall: 5-0)

F. 935 Kearny St. #82

Q001-39A

The tenant's petition alleging substantial decreases in housing services in this residential hotel was granted, in part, and the landlord was found liable to the tenant in the amount of \$940.00 due to the failure of the landlord to provide a clean mattress and ceiling leaks. Additionally, rent overpayments in the amount of \$159.67 were determined to be owing to the tenant from the landlord. The tenant's failure to repair claim was denied because none of the conditions complained of were found to constitute violations of state or local law. The landlord appeals the decision, alleging that the mattress was acceptable to the tenant at the time he rented the unit and a new, as opposed to replacement, mattress was never promised; and that the leaks were repaired as soon as the landlord received notice of the problem from the Department of Building Inspection.

MSC: To deny the appeal. (Marshall/Palma: 5-0)

G. 2011 Sacramento St. #5

Q001-41A

The tenant's petition alleging substantially decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$2,900.00 due to roof leaks and resulting water damage. The landlord had promised the tenant that the roof leaks would be repaired prior to her occupancy of the unit, and the parties came to an agreement that reduced the base rent by \$50.00 per month since the repair work had not been done. At issue was whether or not this reduction in rent was meant to be permanent or temporary; the hearing officer held it to be permanent. On appeal, the landlord asserts that a \$50.00 per month rent reduction during the summer months is excessive because the habitability of the unit is not compromised when it is not raining; as is the \$100.00 per month rent reduction during the winter months, because the base rent was already reduced by \$50.00.

MSC: To deny the appeal. (Gruber/Palma: 5-0)

H. 124 Pfeiffer St.

Q001-48R; Q001-42A

The landlord's petition for a rent increase to the tenant of one condominium unit was granted. In addition, rent overpayments in the amount of \$1,050.72 were determined to be owing from the landlord to the tenant. The landlord appeals the portion of the decision requiring that new 30-day notice be issued in order to impose the increase, because the landlord's petition was filed after the notice of rent increase had been issued to the tenant instead of before. In response to the landlord's appeal, the tenant files an appeal to any retroactive application of the operating expense increase, claiming that allowing the increase retroactive to the date of the landlord's notice would present her with a financial hardship.

MSC: To deny both the landlord's and tenant's appeals.
(Marshall/Becker: 4-1; Gruber dissenting)

V. Communications

The Commissioners received several pieces of correspondence regarding cases on the calendar.

VI. Director's Report

Executive Director Grubb welcomed the new Commissioners, circulated a roster to obtain their mailing addresses and informed them that they are eligible for health and other benefits through the City. He also informed the Board that Rent Board information is now published in the "Bay Area Rental Guide", which can be obtained at supermarkets.

VII. Old Business

In deference to the presence of the new Commissioners, discussion of the Costa-Hawkins Bill (AB 1164) was continued to the next meeting.

VIII. Remarks from the Public

Robert Pender of the Tenants' Network welcomed the new Commissioners and provided all Board members with the most recent issue of the "Tenant Times."

IX. Calendar Items

March 26, 1996 - NO MEETING

April 2, 1996

5 appeal considerations

Old Business: Costa-Hawkins Bill (AB 1164)

X. Adjournment

President Becker adjourned the meeting at 8:00 p.m.



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(11/95) lk/comm/accmtg



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 5:30 p.m.,

April 2, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

- I. Call to Order DOCUMENTS DEPT.
- II. Roll Call MAR 27 1996
- III. Approval of the Minutes SAN FRANCISCO
PUBLIC LIBRARY
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 105 Chenery St. Q001-43A

The landlord appeals the decision partially granting claims of decreased housing services.

B. 162 Sweeney St. Q001-49R

The tenant appeals the decision denying her petition alleging decreases in housing services and incorrect calculation of the PG&E passthrough.

C. 74 - 6th St. #231 Q001-50R

The tenant appeals the dismissal of her petition alleging decreased housing services.

D. 1000 Howard St. #212 Q001-46A

The landlord appeals the decision granting claims of decreased housing services on the grounds that he did not receive notice of the hearing.

E. 135 - 6th St. #410, 408 & 406 Q001-45A

The landlord appeals the decision granting rent reductions due to decreased housing services to three units.

- VI. Communications
- VII. Director's Report

- VII. Director's Report
- VIII. Old Business
 - Costa-Hawkins Bill: AB 1164
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, April 2, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Becker called the meeting to order at 5:35 p.m.

II. Roll Call

Commissioners Present: Becker; Bierley; Lightner; Mosser; Murphy;
Palma.
Commissioners not Present: Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 5:43 p.m.; Commissioner
Gruber arrived at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 19, 1996.
(Lightner/Mosser: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network reported the defeat of Proposition 199,
regarding rent control in mobile home parks, on the March 26th ballot; that he
received in excess of 6,000 votes in his run for Democratic Central Committee;
and that there will be a "Tenants' Congress" on April 13, 1996.

V. Consideration of Appeals

A. 105 Chenery St.

Q001-43A

The tenant's petition alleging substantial decreases in housing services was
granted, in part, and the landlord was found liable to the tenant in the amount of
\$955.00 due to various habitability defects on the premises. On appeal, the
landlord alleges: that certain of the problems alleged by the tenant were
repaired promptly upon receipt of notice of the problem from the tenant; that the
tenant has caused certain of the problems by her own conduct; that the tenant
contacted the Department of Building Inspection prior to any notification to the
landlord; that a rent reduction of \$20 per month for 13 months for a drainage
problem on the front landing fails to take seasonal differences into account; and

that he has been responsive to bona fide defects on the premises, but is being harassed by the tenant.

MSF: To accept the landlord's appeal and remand the case to a new hearing officer for a new hearing. (Gruber/Lightner: 2-3; Becker, Marshall, Palma dissenting)

MSC: To accept the landlord's appeal and remand the case to the hearing officer on the record on the following issues only: to allow the landlord to respond to the Department of Building Inspection Order of Abatement submitted after the record had closed; to issue a Technical Correction to the Decision to reflect the fact that Professor Mark Aaronson of the Hastings Civil Justice Clinic was in attendance at the hearing; and to reconsider the length of time that rent reductions were granted for the drainage problem on the front landing. A hearing will be held only if necessary. (Marshall/Palma: 5-0)

B. 162 Sweeney St.

Q001-49R

The tenant's petition alleging decreased housing services was denied because the tenant failed to provide access in order for the landlords to effectuate repairs. The tenant, who has several young children living on the premises, had concerns that repair work by untrained persons could disturb lead-based paint surfaces and create serious health hazards for her family. The tenant appeals, asserting that sufficient documentary and oral evidence were produced at the hearing to substantiate a finding for the tenant on the issues of lack of heat, an inoperable shower door, a broken fence, cockroach infestation, excessive PG&E bills due to the presence of additional occupants in an illegal unit, no kitchen fan/vent and laundry room venting, and several other defects on the premises.

MSC: To deny the appeal. (Gruber/Lightner: 5-0)

C. 74 - 6th St. #231

Q001-50R

The tenant's petition alleging substantial decreases in housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims that she was ill, and that she could provide medical records if necessary. The Deputy Director contacted the tenant and said that medical documentation would be advisable, at which time the tenant indicated that she had failed to receive notice of the hearing. The tenant failed to furnish a Declaration of Non-Receipt of Notice of Hearing, which was sent to her, nor any documentation of her medical condition.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

D. 1000 Howard St. #212

Q001-46A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,058.00 due to habitability defects on the premises. The landlord had failed to appear at the properly noticed hearing. On appeal, the landlord submits a Declaration under penalty of perjury attesting to the fact that the property manager for the premises had been out of the country prior to the mailing of the Notice of Hearing and did not return until after the hearing had been held. After discussion, it was the consensus of the Commissioners to continue consideration of this case to the next meeting in order to obtain a Declaration from the property manager attesting to his unavailability for the hearing and explaining who performed necessary duties in his absence, including collection of rent.

E. 135 - 6th St. #410 & 406

Q001-45A

Two tenants' petitions alleging substantial decreases in housing services in a residential hotel were granted, in part, by the hearing officer. The tenant in unit #410 was granted rent reductions in the amount of \$50.00 per month: \$25.00 due to inadequate heat and \$25.00 because of repeated and persistent power outages. The tenant in unit #406 was granted \$25.00 per month due to inadequate heat only. The landlord appeals, asserting that: the heating problem was repaired within two weeks after notice from the tenant, who failed to provide access for the repairs to be effectuated; the heat is controlled by a thermostat which is located in a room occupied by a tenant in the building, and is not under the landlord's control; the hotel is part of a City program under the auspices of the Tenderloin Housing Clinic and is therefore subject to frequent inspections by the Department of Building Inspection, all of which it has passed; and that the hearing officer exhibited bias against the landlord.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Becker/Gruber: 5-0)

MSC: To accept the landlord's appeal and remand the case to a new hearing officer for a new hearing on the issues of the power outages and adequacy of heat; both parties are encouraged to provide as much documentary and historical evidence as possible to augment their positions. (Marshall/Palma: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Several letters from landlords encouraging the Board to simplify and clarify Rules and Regulations Section 6.14.

B. A confidential roster with the Commissioners' names and addresses.

C. The office workload statistics for the month of February, 1996.

D. The Annual Report on Eviction Notices delivered to John Taylor, Clerk of the Board of Supervisors.

VII. Director's Report

Executive Director Joe Grubb reminded the Commissioners to turn in their Form 730 Economic Interest Statements.

VIII. Old Business

The Commissioners engaged in a discussion of the Costa-Hawkins Bill (AB 1164), particularly with regard to subletting issues and necessary changes to Section 6.14 of the Rules and Regulations. This discussion will continue at the April 30th Board meeting, which Deputy City Attorney Mariam Morley will be asked to attend.

IX. Calendar Items

April 9, 1996 - NO MEETING

April 16, 1996

5 appeal considerations (1 cont. from 4/2/96)

April 23, 1996 - NO MEETING

April 30, 1996

Old Business: Costa-Hawkins Bill (AB 1164)

X. Adjournment

President Becker adjourned the meeting at 8:05 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

April 16, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

APR 10 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 1000 Howard St. #212

Q001-46A
(cont. from 4/2/96)

The landlord appeals the decision granting claims of decreased housing services on the grounds that he failed to receive the Notice of Hearing.

B. 2001 California St. - 10 units

Q001-51R
thru -60R

Ten tenants appeal a decision granting certification of capital improvement costs.

C. 261 Laguna St.

Q001-47A

The landlord appeals a decision granting rent reductions to the tenants of six units due to decreased housing services.

D. 839 Leavenworth St. #210

Q001-48A

The landlord appeals the decision granting a claim of substantially decreased housing services.

E. 372 West Portal Ave. #4, 5, 7, 8 & 11

Q001-49A

The landlord appeals the hearing officer's determination that notices of a capital improvement passthrough were null and void because the petition had been withdrawn, rather than amended, prior to the notices having been issued.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

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4/16/96

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**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

Tuesday, April 16, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

APR 24 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Becker; Bierley; Moore; Mosser; Murphy;
Palma.
Commissioners not Present: Gruber; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 5:45 p.m.;
Commissioner Lightner arrived at 6:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 2, 1996.
(Murphy/Bierly: 5-0)

IV. Remarks from the Public

Robert Pender announced that the Tenants' Network's first fund-raiser will be held on April 24th, to which he invited the tenant Commissioners. He also welcomed new Tenant Alternate Commissioner, Everett Moore, as did Board President Becker.

V. Consideration of Appeals

A. 1000 Howard St. #212

Q001-46A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,058.00 due to habitability defects on the premises. The landlord had failed to appear at the properly noticed hearing. On appeal, the landlord submitted a Declaration under Penalty of Perjury attesting to the fact that the property manager for the premises had been out of the country prior to the mailing of the Notice of Hearing and did not return until after the hearing had been held. At their meeting on April 2, 1996, the Commissioners continued this matter in order

to obtain a Declaration from the property manager, which was requested by staff but not received.

MSC: To deny the appeal. (Marshall/Mosser: 5-0)

B. 2001 California St. - 10 units

Q001-51R thru -60R

The landlord's petition for certification of capital improvement costs was granted. Ten tenants appeal the decision, asserting that: tenants should not have to pay for replacement of a garage door that was necessitated by security concerns, nor should they pay for replacement of another garage door which was damaged by repeated failures of the automatic garage door opener; tenants should only pay for replacement of the garage door to which they have access; there are numerous factual errors in the decision; work done on the roof was in the nature of repair, rather than a capital improvement, and the roof continues to leak; much of the work was done without permits; and the electrical wiring upgrade was required by the landlord's insurance company, should have been done for safety reasons several years ago, and was of no benefit to the tenants.

MSC: To deny the appeals. (Mosser/Palma: 5-0)

C. 261 Laguna St.

Q001-47A

Six tenant petitions alleging substantial decreases in housing services and the landlord's failure to repair were filed; five were withdrawn or dismissed prior to the decision in the case being issued. As to the remaining petition, the hearing officer found the landlords liable to the tenants in the amount of \$7,575.00 due to lack of heat in the unit with notice to the prior owner of the property going back to February, 1983. On appeal, the landlord alleges that the tenants failed to prove that the unit was without heat, only that the heaters shorted out periodically; that the current owner cannot be held liable for the prior landlord's failure to provide heat and that any rent reductions should commence from the date of the new owner's purchase of the property; that the 2-year Statute of Limitations on a breach of an oral contract should apply; and that the equitable defense of laches should bar the rent reductions granted in this case.

MSC: To deny the appeal. (Marshall/Palma: 3-2; Lightner, Mosser dissenting)

D. 839 Leavenworth St. #210

Q001-48A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$3,125.75 due to numerous, serious habitability problems on the premises. The landlord failed to appear at the properly noticed hearing and alleges on appeal that: the Notice of Hearing was sent to a 3% partner in the building, who failed to notify the principal owner of the proceedings; that the subject tenant failed to

give notice of many of the conditions to the landlord; and that the outstanding code violations have been abated.

MSC: To recuse Commissioner Becker from consideration of this matter. (Becker/Marshall: 5-0)

MSC: To deny the appeal. (Marshall/Moore: 5-0)

E. 372 West Portal Ave. #4, 5, 7, 8 & 11 Q001-49A

The landlord's appeal was filed five days late because the Decision of Hearing Officer was sent to an address with an incorrect zip code, and therefore was received late by the landlord. The zip code that was used, however, was taken from the Notice of Appearance form filled out by the landlord at the hearing.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Lightner: 5-0)

The landlord's petition for certification of the costs of removal of an underground storage tank was granted. The landlord originally filed the petition on December 30, 1994 and gave the tenants of five units notice of rent increase on that date. Subsequently, the landlord withdrew the petition and re-filed it on April 28, 1995. The hearing officer therefore determined that the rent increase notices were null and void, having been issued prior to the petition being filed. On appeal, the landlord maintains that he amended, rather than withdrew, the petition and that therefore the validity of the rent increase notices should be upheld.

MSC: To deny the appeal; the landlord is advised that he would have had to issue new notices of rent increase for the higher amount regardless. (Palma/Lightner: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memorandum from Tom Trimbur of the Department of Public Works inquiring as to any passthrough provisions in the Ordinance and/or Rules for assessment district costs related to the undergrounding of utility poles.

B. A letter from the Executive Director of the San Francisco Apartment Association and several letters from landlords requesting that the Board clarify and simplify Rules Section 6.14 in light of Assembly Bill 1164 (Costa-Hawkins) as soon as possible.

C. A letter from Executive Director Grubb to Professor Mark Aaronson of the Hastings Civil Justice Clinic expressing some Commissioners' concern over

the fact that the clinic represents only tenants at Rent Board hearings, and not landlords.

D. A letter from Debra Hayes, Assistant District Attorney, with examples of letters sent to landlords and tenants pursuant to the Rent Board's forwarding of random samples of notices to terminate tenancies.

E. A packet of materials from Commissioner Lightner, including a copy of the Santa Monica Beach, Ltd. v. Santa Monica Rent Control Board case (Superior Court No. SS005266) and an article on regulatory takings law from the "Southwestern University Law Review."

VII. Director's Report

Executive Director Grubb reminded the Commissioners to turn in their Form 730 Statement of Economic Interest forms, if they have not already done so.

VIII. Consideration of Allegation of Wrongful Eviction

474 - 19th Ave.

Q001-36E

The tenant was served with an eviction notice under Section 37.9(a)(11) of the Ordinance. The tenant was asked to vacate in order for reconfiguration of the unit in which he resided to take place. The notice was defective in that: it failed to state a just cause reason for the tenant to vacate; it failed to contain an "advice clause"; and a copy of the notice was not filed with the Rent Board within 10 days of service on the tenant. Additionally, the hearing officer found that the necessary permits were not obtained prior to service of the notice; no indication was given to the tenant as to whether he would be required to vacate for longer than 3 months, despite the tenant's persistent inquiries; and no Request for Extension of Time was filed with the Rent Board, although the tenant has now been out of his unit for almost one year. The tenant has recently been served with a termination notice based on occupancy by the owner's relatives.

Hearing Officer and Staff Recommendation: That this matter immediately be referred to the Commissioners to consider: (1) instituting a civil proceeding against the landlord under Ordinance Section 37.9(f); (2) referring this matter to the District Attorney for criminal prosecution under Ordinance Section 37.9(e); and (3) referring the landlord's attorney to the California State Bar Association for review of his actions in this matter.

MSC: To accept the staff recommendations in this case.
(Palma/Marshall: 5-0)

IX. Calendar Items

April 23, 1996 - NO MEETING

April 30, 1996

Old Business:

- A. 1000 Howard St. #212 Q001-46A (considered 4/16/96)
- B. Costa-Hawkins Bill: AB 1164

May 7, 1996

6 appeal considerations (1 rescheduled from 4/2/96)

X. Adjournment

President Becker adjourned the meeting at 7:15 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

April 30, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

APR 24 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Old Business
- A. 1000 Howard St. #212 Q001-46A (considered 4/16/96)
- B. Costa-Hawkins Bill: AB 1164
- VI. Communications
- VII. Director's Report
- IV. Remarks from the Public (cont.)
- VIII. New Business
- IX. Calendar Items
- X. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accmgt

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,Tuesday, April 30, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level DOCUMENTS DEPT.

MAY 09 1996

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Moore;
Mosser; Murphy; Palma; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Marshall appeared on the record at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 16, 1996.
(Bierly/Palma: 5-0)

IV. Old Business

A. 1000 Howard St. #212 Q001-46A
(considered 4/16/96)

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,058.00 due to habitability defects on the premises. The landlord had failed to appear at the properly noticed hearing. On appeal, the landlord submitted a Declaration under Penalty of Perjury attesting to the fact that the property manager for the premises had been out of the country prior to the mailing of the Notice of Hearing and did not return until after the hearing had been held. At their meeting on April 2, 1996, the Commissioners continued this matter in order to obtain a Declaration from the property manager, which was to be submitted no later than noon on April 16, 1996. As no such Declaration was received by the meeting on April 16th, the Commissioners voted to deny the landlord's appeal.

On April 17th, the Deputy Director received a packet containing the requested Declaration, showing that it had been timely delivered to another office in the building. In light of this mistake on the part of the postal service, the Commissioners passed the following motion:

MSC: To accept the landlord's appeal and remand the case to the same hearing officer to make a threshold determination regarding the credibility of the alleged conversation wherein the tenant purportedly stated that he was going to withdraw his petition; and, based on such determination, to uphold the original Decision of Hearing Officer or go forward with a new hearing. (Marshall/Palma: 5-0)

B. Costa-Hawkins Bill: AB 1164

The Commissioners discussed the provisions of the Costa-Hawkins Bill (AB 1164) with Deputy City Attorneys Mariam Morley and Mary Hurley. The focus of the discussion was the extent to which Rules and Regulations Section 6.14 must be modified in order to conform to the new requirements of State law, especially with regard to the notice provisions. Several of the Commissioners expressed their desire to have the City Attorney review a draft proposal authored by prior Commissioner Jonathan Hayden, subsequently amended, and issue an opinion as to its legal adequacy. The following motion was passed and the issue was continued to the meeting on June 4, 1996:

MSC: To get an opinion from the City Attorney regarding whether the amendments to Rules and Regulations Section 6.14 suggested by prior Commissioner Jonathan Hayden, with certain modifications, would be sufficient to bring Rules Section 6.14 into conformity with the requirements of the Costa-Hawkins Bill (AB 1164). (Marshall/Palma: 5-0)

V. Communications

The Commissioners received a copy of a letter to the State Bar regarding the conduct of an attorney involved in the eviction case at 474 - 19th Ave. (Q001-36E). Staff will incorporate two suggestions offered by the Commissioners and provide a re-draft for President Becker's signature at the next meeting.

VI. Director's Report

Executive Director Grubb reminded those Commissioners who have not yet turned in their Form 730 Statement of Economic Interest forms to do so. He informed the Commissioners that a packet of informational materials regarding the Rent Board's new mediation project has been sent to representatives of the tenants' and landlords' communities. After input and recommendations have been received and incorporated, this will be brought before the Board for approval around the first or second week in June.

VII. Calendar Items

May 7, 1996

6 appeal considerations (1 re-scheduled from 4/2/96)

Old Business: Proposed Amendments to Rules Section 10.10

May 14, 1996 - NO MEETING

VIII. Adjournment

President Becker adjourned the meeting at 7:50 p.m.



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R52
#1

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,
May 7, 1996
25 Van Ness Avenue, #70, Lower Level

5/7/96

AGENDA

DOCUMENTS DEPT.
MAY 03 1996
SAN FRANCISCO
PUBLIC LIBRARY
Fax Copy
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5/7/96

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 172A, 174A & 174B Castro St. Q001-44A
(re-scheduled from 4/2/96)

The landlord appeals the denial of a petition for rent increases based on comparables for a Newly Covered Unit under Ordinance Section 37.12 (Proposition I).

B. 172A Castro St. Q001-51A

The landlord appeals the decision granting rent reductions due to claims of decreased housing services.

C. 2400 Pacific Ave. #606 Q001-62R

One tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

D. 134-136 Carl St. Q001-50A

The landlord appeals the decision granting rent reductions to three tenants due to decreases in housing services.

E. 736 Dolores St. Q001-61R

The tenant appeals the remand decision determining the appropriate cut-off date for rent reductions due to the loss of use of a washer and dryer.

F. 2398 Pacific Ave.

Q001-52A

The landlord appeals the decision granting rent reductions due to decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

Proposed Amendments to Rules and Regulations Section 10.10
Regarding the Issue of Constructive Notice

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, May 7, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level, DOCUMENTS DEPT.

MAY 16 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Marshall;
Mosser; Palma; Wasserman.
Commissioners not Present: Moore.
Staff Present: Grubb; Wolf.

Commissioner Murphy appeared on the record at 5:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of April 30, 1996.
(Lightner/Gruber: 5-0)

IV. Remarks from the Public

Two landlords expressed their concern over an article in the San Francisco Examiner that indicated that recent mayoral appointments to the Rent Board had created a tenant bias on the Commission.

V. Consideration of Appeals

A. 172A, 174A & 174B Castro St. Q001-44A
(re-scheduled from 4/2/96)

The landlords of a Newly Covered Unit under Proposition I filed a petition seeking rent increases based on comparable rents, asserting that they purchased the property in reliance on their ability to raise rents without limitation from the Rent Ordinance and claiming landlord hardship. The tenants asserted financial hardship as well. The landlords chose not to pursue rent increases based on comparables for units with tenancies of similar duration. The petition was denied because the hearing officer found that the landlords' current income exceeded their expenses so that hardship was not demonstrated, and therefore the evidence of recent tenancies proffered by the landlords was not comparable to the subject tenancies. The hearing officer found that although the medical

condition of one of the landlords was likely to result in an inability to work, current financial hardship had not been established. On appeal, the landlords assert that: the hearing officer should have allowed consideration of a fair and reasonable rate of return from the property when considering the landlords' hardship application, relying on the case of Kavanau v. Santa Monica Rent Control Board; and the significant liquid assets and wealth of one of the tenants should have been considered relative to that of the petitioners.

MSC: To excuse Commissioner Murphy from consideration of this appeal. (Murphy/Marshall: 5-0)

MSF: To accept the appeal and remand the case to re-examine the issue of landlord hardship with instructions. (Lightner/Gruber: 2-3; Becker, Marshall, Palma dissenting)

MSC: To deny the appeal without prejudice to the future filing of a petition should the landlords' financial circumstances change; any claims of tenant hardship would be examined at that time as well. Such a petition would be given priority in scheduling. (Becker/Marshall: 4-1; Lightner dissenting)

B. 172A Castro St.

Q001-51A

The tenant's petition alleging decreased housing services was granted as to a claim of inadequate water pressure only and the landlords were found liable to the tenant in the amount of \$25.00 per month (\$525.00). The landlords appeal the decision, asserting that: the tenant failed to meet his burden of proving his contentions and the building is up to code in this regard; the landlords live in the building themselves and have not experienced the problem of which the tenant complains; and there would only be a problem in the unlikely event that the residents of all four units in the building showered at the same time.

MSC: To excuse Commissioner Murphy from consideration of this case. (Murphy/Marshall: 5-0)

MSC: To accept the appeal and remand the case to the hearing officer to re-examine whether the problem with the water pressure rises to the level of substantiality; a hearing will be held only if necessary. (Marshall/Palma: 5-0)

C. 2400 Pacific Ave. #606

Q001-62R

The landlord's petition for rent increases based on increased operating expenses and certification of capital improvement costs for forty-five of sixty-two units in the building was granted. Two tenants, an elderly couple, appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' allegations of financial hardship.
(Marshall/Becker: 5-0)

D. 134-136 Carl St.

Q001-50A

Four tenant petitions alleging substantially decreased housing services were granted in part and denied in part. The landlords were found liable to the tenants in the amount of \$525.00 (\$25.00 per month) due to the damaged condition of the entry way to the building, which resulted from the Loma Prieta earthquake. On appeal, the landlords allege that the hearing officer erred in granting rent reductions in the amount of \$25.00 per month when the tenant petitioners requested only \$20.00 per month for the condition of the building's entry way; that the hearing officer incorrectly concluded that long-term verifiable notice of the condition was given to the landlords; and, that once notice was given, the entry way was repaired within one month.

MSC: To excuse Commissioner Mosser from consideration of this appeal. (Lightner/Becker: 5-0)

MSC: To accept the appeal and remand the case to the hearing officer only to limit the amount of the rent reductions granted for the condition of the entry way to the sums requested in the tenants' petitions. (Marshall/Becker: 4-1; Gruber dissenting)

E. 736 Dolores St.

Q001-61R

The tenant's petition alleging substantial decreases in housing services was granted in part and denied in part. On appeal by the landlords, the case was remanded to the hearing officer on the record to determine a cut-off date for the rent reduction due to the loss of use of the washer and dryer on the premises, based on the remaining life span of the appliances, which was determined to be through September 1995. The tenant appeals the Decision on Remand, arguing that the rent reduction should continue until such time as the washer and dryer actually cease to function or the service is replaced, because the appliances are still in working order and the tenant has been deprived of their use by the landlords' actions.

MSC: To deny the appeal. (Lightner/Palma: 5-0)

F. 2398 Pacific Ave.

Q001-52A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,450.00 due to the loss of roof deck access, water-damaged walls, decreased building maintenance, intermittent scalding hot water in the shower, reduced garage door security and dirty windows caused by the landlord's roofing contractor. The landlord appeals the decision, claiming that: the hearing was a denial of due process, since the tenant's petition did not provide adequate

notice of the issues to be presented; at no time was the roof deck presented as available to the tenants, and tenants were discouraged from going up on the roof; substantial sums have been expended to mitigate the water seepage problem; and the allegation of scalding hot water in the shower is not credible because only one other tenant in the building has complained of this problem.

MSC: To accept the appeal and remand the case to the hearing officer on the record to clarify whether or not weather was taken into consideration in determining the amount of the rent reduction for loss of access to the roof deck, and to make appropriate adjustments if it was not. The appeal is denied as to all other issues. (Marshall/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The monthly workload statistics for March, 1996.

B. A letter to the State Bar regarding the conduct of an attorney involved in the eviction case at 474 - 19th Ave. (Q001-36E), which was approved by the Board and signed by President Becker.

C. An updated roster of Commissioners' addresses and phone numbers.

VII. Old Business

Discussion of proposed amendments to Rules Section 10.10 authored by Commissioner Becker was continued to the next meeting.

IV. Remarks from the Public (cont.)

A member of the public asked what was meant by the Board's "leaky roof policy." It was explained that weather considerations are factored in when granting rent reductions for weather-related problems, such as roof leaks, access to roof decks, etc.

VIII. Calendar Items

May 14, 1996 - NO MEETING

May 21, 1996

1 appeal consideration

6:00 Appeal Hearing: 19 Noe St. #B (Q001-37A) (acpt. 3/19/96)
(rescheduled from 5/7/96)

Old Business: Proposed Amendments to Rules Section 10.10

IX. Adjournment

President Becker adjourned the meeting at 8:00 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,
May 21, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

MAY 16 1996

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SF
R52
#1
5/21/96

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 738 Haight St.

Q001-54A

The landlord appeals a Decision on Remand granting rent increases based on comparables. The landlord disputes the amount determined to be owing by the hearing officer because of the res judicata effect of a Municipal Court judgment.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Proposed Amendments to Rules and Regulations Section 10.10
Regarding the Issue of Constructive Notice

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Appeal Hearing

6:00 19 Noe St. #B

Q001-37A (acpt. 3/19/96)
(rescheduled from 5/7/96)

- XI. Calendar Items
- XII. Adjournment



ACCESSIBLE MEETING POLICY

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accmtg



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, May 21, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT.

MAY 31 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

SHIRLEY A. BIERLY President Becker called the meeting to order at 5:40 p.m.

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

II. Roll Call

Commissioners Present:

Becker; Bierly; Moore; Mosser; Palma;
Wasserman.

Commissioners not Present:

Gruber.

Staff Present:

Grubb; Wolf.

Commissioner Murphy appeared on the record at 5:45 p.m.; Commissioner Marshall appeared at 5:50 p.m.; and Commissioner Lightner arrived at the meeting at 5:55 p.m. Commissioner Palma went off the record at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 7, 1996.
(Bierly/Palma: 4-0)

IV. Consideration of Appeals

738 Haight St.

Q001-54A

The landlord filed a petition for rent increases based on comparables which was denied because the hearing officer found that the landlord had failed to prove that the initial rent for the unit had been set very low. The landlord's appeal of the decision was accepted and the case was remanded to a new hearing officer to re-examine the comparables issue and to obtain assurance that the landlord had the authority to act on behalf of the estate. In the Decision on Remand, an increase from \$700 to \$1,450.00 was found to be justified. However, because of a Municipal Court judgment pursuant to an unlawful detainer action, the hearing officer found that the increase could not be effective until March 1, 1996. The landlord appeals the remand decision, asserting that the hearing officer erred in applying the doctrine of res judicata, because the judge specifically made no finding as to the amount of the monthly rent or terms of the tenancy.



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(11/95) lk/comm/accmgt

MSC: To accept the appeal and remand the case to the hearing officer on the record to grant the rent increase retroactive to the effective date of the landlord's notice, or June 1, 1995. (Palma/Bierly: 5-0)

V. Old Business

The Board briefly discussed proposed amendments to Rules Section 10.10 drafted by Commissioner Becker regarding the issue of constructive notice. This discussion will be continued at the Board meeting on June 4, 1996.

VI. Appeal Hearing

19 Noe St. #B

Q001-37A

(rescheduled from 5/7/96)

The tenant's petition alleging unlawful increases in rent was granted and the landlord was found liable to the tenant in the amount of \$10,017.75 due to PG&E passthroughs being incorrectly calculated and improperly included in base rent for purposes of calculating annual increases. On appeal, the landlord asserted that the wrongful increases were de minimus and the result of a procedural error by the prior owner, which resulted in a windfall to the tenant; that the equitable doctrine of laches should apply to bar the tenant's recovery because he knew of the existence of the Rent Board as far back as 1988 but failed to assert his rights; and that the hearing officer was mistaken in finding that the only harm to the landlord was economic. At their meeting on March 19, 1996, the Board accepted the landlord's appeal for Board hearing and instructed the landlord to bring a copy of the Purchase Agreement for the property to the hearing in order to determine whether the landlord had a remedy against the prior owner. Staff was also asked to provide a chart showing the actual amount of the rent overpayments, which turned out to be \$4,187.81.

The appeal hearing commenced at 6:30 p.m., at which time the parties stipulated to Findings of Fact numbers 1 through 17 in the Decision of Hearing Officer issued on February 6, 1996. The tenant appeared with his attorney; the landlord was accompanied by counsel and the prior owner of the property. The tenant's attorney asserted that laches should not apply to an action at law, citing the California Supreme Court case of County of Los Angeles v. City of Alhambra (1980) 27 § Cal.3d 184, 195, 165 Cal. Rptr. 440, 612 p.2d 24; that even if the Board chose to consider laches, the tenant would prevail on the facts; that the Contingency Fund in the landlord's Purchase Agreement was established to cover any future liability and/or the landlord had a cause of action against the prior owner as well as his attorney for failure to exercise due diligence; that the Board has no discretion regarding null and void rent increases; and that the Estoppel Certificate signed by the tenant was not binding, nor did the tenant warrant the legality of the base rent in signing it. The landlord's attorney argued that the Rent Ordinance is not a doctrine of strict liability; that the Contingency Fund was not intended to cover the instant claim because the tenant failed to disclose the petition he had filed two days prior to

signing the Estoppel Certificate; and that the tenant's conduct and failure to exercise his rights should also be taken into account.

After conclusion of the hearing at 9:15 p.m., and consideration of the documentary evidence and testimony, the Board made the following motions:

MSF: To overturn the Decision of Hearing Officer and deny the tenant's petition. (Murphy/Mosser: 2-3; Becker, Marshall, Wasserman dissenting)

MSC: To overturn the Decision of Hearing Officer based on equitable estoppel but, based on the equitable powers of the Board, to refund to the tenant the out-of-pocket amounts that were actually overpaid, not subject to the 3-year Statute of Limitations on rent overpayments. (Wasserman/Mosser: 4-1; Murphy dissenting)

VII. Communications

In addition to correspondence regarding the appeal consideration on the calendar, the Commissioners received a copy of a post card notifying them that the Office of the Chief Trial Counsel for the State Bar of California had received their referral of the attorney in the eviction case concerning 474 - 10th Ave. (Q001-36E).

VIII. Remarks from the Public

A member of the public inquired as to whether tenants' base rents are readjusted back to the 1982 levels when rent increases are determined to be null and void, although rent overpayments are only refunded for a three-year period.

IX. Calendar Items

May 28, 1996 - NO MEETING

June 4, 1996

4 appeal considerations

Old Business:

A. Costa-Hawkins Bill (AB 1164)

B. Proposed Changes to Rules Section 10.10

X. Adjournment

President Becker adjourned the meeting at 9:45 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

Tuesday, 5:30 p.m.,

June 4, 1996

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

DOCUMENTS DEPT.

MAY 30 1996

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I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 3848 Sacramento St. #3 Q001-63R

One tenant appeals a decision granting certification of capital improvement costs.

B. 1430 Francisco St. #5 Q001-64R

One tenant appeals a decision certifying capital improvement costs on the grounds that another hearing in the matter was supposed to have been scheduled.

C. 110 Noe St. Q001-65R

One tenant appeals a decision certifying capital improvement costs on the basis of financial hardship.

D. 2714 Webster St. #3 Q001-55A

The landlord appeals a decision denying a comparables rent increase for one unit but determining rent overpayments.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Costa-Hawkins Bill: AB 1164

B. Proposed Amendments to Rules and Regulations Section 10.10
Regarding the Issue of Constructive Notice

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



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MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

2

Tuesday, June 4, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

6/4/96

DOCUMENTS DEPT.

JUN 13 1996

SAN FRANCISCO
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I. Call to Order

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Mosser.
Commissioners not Present: Palma.
Staff Present: Grubb; Wolf.

Commissioner Moore appeared on the record at 5:45 p.m.;
Commissioner Marshall at 5:47 p.m.; Commissioner Wasserman at 5:50
p.m.; Commissioner Murphy at 5:55 p.m.; and Commissioner Lightner
arrived at 7:00 p.m. and went off the record at approximately 7:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 21, 1996.
(Bierly/Mosser: 3-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Commissioners that the
supermarket located in the Parkmerced complex has recently shut down,
creating a large inconvenience to the residents. He asked if there was anything
that the Board could do to help.

V. Consideration of Appeals

A. 3848 Sacramento St. #3

Q001-63R

The landlord's petition for certification of capital improvement costs for the
tenants in two units was certified, in part, by the hearing officer. The tenant in
one unit appeals the decision, asserting that: there are numerical errors in the
decision; replacement garbage cans should be considered an operating
expense rather than a capital improvement; the water heater should be treated
as a replacement appliance for which the tenant had already had the benefit;
the roof work constituted a repair, the roof still leaks, the landlord failed to
deduct a \$4,000 payment that should be offset against the cost of the work, and



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(11/95) lk/comm/accmgtg

the work benefited all the units in the building and should be allocated thusly; the deck work has resulted in a hazardous condition from which the tenant derives no benefit and to which he objected prior to the work being done; and the granting of imputed interest at the rate of 10% is excessive since the prior owner paid no interest costs.

MSC: To accept the appeal and remand the case to the hearing officer on the record, if possible, on the following issues: to make any necessary technical corrections to the decision; to make a finding on the issue of deferred maintenance regarding the new roof; to make a finding regarding the \$4,000.00 payment to the landlord; to disallow the passthrough for new garbage cans in that this item does not constitute a capital improvement; and to specify in the decision that if the new deck is removed, the passthrough for this item shall expire. (Marshall/Wasserman: 5-0)

B. 110 Noe St.

Q001-65R

The landlords' petition for certification of the cost of painting the exterior of the building was granted, resulting in a passthrough of approximately \$43.00 per month to the tenants in three units. One tenant appeals the decision on the grounds of financial hardship; additionally, the base rent amount for this unit was transposed with that of another unit in the building and needs to be corrected.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship and to make the necessary technical correction to the decision. (Marshall/Becker: 5-0)

C. 2714 Webster St. #3

Q001-55A

The landlord's petition for rent increases based on comparables was granted for one unit but denied as to the tenant in unit #3 in the building because the hearing officer found that the landlord failed to meet his burden of proof in justifying the amount of increase requested. The landlord was also found liable in the amount of \$14,550.00 to the tenant in unit #3 due to unlawful rent increases. On appeal, the landlord maintains that: he is being penalized for an act of charity, in that the tenant's occupancy was supposed to have been temporary, while the tenant was recovering from an illness, and the sums collected represented expense reimbursement rather than rent; the decision violates the Evidence Code in that the record is devoid of any evidence other than the testimony of the landlord's expert witness, which was not countervailed by the tenant; and by disallowing the establishment of a near market rent for the unit, the decision denies the landlord of a reasonable return on his investment and constitutes an unlawful taking of his property in violation of the United States and California Constitutions.

MSC: To accept the appeal and remand the case for a new hearing on the issue of a rent increase for unit #3 based on comparables. The appeal is also accepted for Board hearing on the issue of the rent overpayments. The Board hearing shall be stayed pending the issuance of a remand decision on the comparables claim. (Murphy/Gruber: 4-1; Becker dissenting)

VI. Old Business

A. Costa-Hawkins Bill: AB 1164

At their meeting on April 30, 1996, the Commissioners had voted to get an opinion from the City Attorney regarding whether the amendments to Rules and Regulations Section 6.14 suggested by prior Commissioner Jonathan Hayden, with certain modifications, would be sufficient to bring Rules Section 6.14 into conformity with the requirements of the Costa-Hawkins Bill. Prior to the meeting, the Board members received a privileged attorney/client memorandum on this issue. Deputy City Attorneys Mariam Morley and Mary Hurley were in attendance to answer questions, and were asked to provide a risk assessment should the Board adopt the Hayden proposal and wind up in litigation. After discussion, the Board passed the following motion:

MSC: To put the amendments to Rules and Regulations Section 6.14 drafted by prior Commissioner Jonathan Hayden, with certain modifications, out for Public Hearing on June 18, 1996. A "damage assessment" will be received from the Office of the City Attorney at that time. (Wasserman/Marshall: 4-1; Lightner dissenting)

B. Rules and Regulations Section 10.10

The Commissioners discussed an amendment to Rules Section 10.10 proposed by Commissioner Becker which would specify that notice to a landlord of decreased housing services can be actual or constructive. Constructive notice could come from a source other than the petitioning tenant and would be deemed to exist in situations where a landlord could have or should have known about a defect in the common areas of the building or interior of the tenant's unit. The Board discussed the motivation for the proposed language, made minor modifications and passed the following motion:

MSC: To put proposed language adding the concept of constructive notice to Rules and Regulations Section 10.10 out for Public Hearing on July 2, 1996. (Becker/Marshall: 5-0)

V. Consideration of Appeals (cont.)

The tenant's appeal was filed one day late without explanation.

MSC: To find good cause for the late filing of the appeal.
(Wasserman/Gruber: 5-0)

The landlords' petition for certification of capital improvement costs was granted, in part, by the hearing officer. On appeal, one tenant, who represented several other tenants in the building, maintains that the hearing officer had stated that an additional hearing would be scheduled to address the tenants' objections to some of the work performed.

MSC: To deny the appeal. (Gruber/Wasserman: 5-0)

VII. Communications

The Commissioners received the office workload statistics for the month of April, 1996.

VIII. Director's Report

Executive Director Grubb reported as follows:

A. The departmental budget, inclusive of an increase in temporary salaries for hearing officers, has been approved by the Mayor's Office, except for the request for a new counselor position.

B. All decisions turned in by hearing officers in the month of April were submitted within 45 days of the close of record date. The department is hoping to be caught up on the decision backlog by September or October.

IV. Remarks from the Public (cont.)

Robert Pender reiterated his comments about the closing of the supermarket in Parkmerced.

IX. New Business

A. Commissioner Marshall provided the Commissioners with a copy of a memorandum prepared by the Law Offices of Goldfarb and Lipman on the issue of lead-related notice and disclosure requirements in pre-1978 housing.

B. Commissioner Marshall distributed a proposed amendment to Section 7.12(c) of the Rules and Regulations establishing a 30-year amortization period for seismic renovation work and resulting major structural improvements. This issue will be discussed at the July 2, 1996 Board meeting.

X. Calendar Items

June 11, 1996 - NO MEETING

June 18, 1996 - 6:00 P.M.

3 appeal considerations

6:30 Public Hearing:

Proposed Amendments to Rules and Regulations Section 6.14 in order to Conform that Section to the new Requirements of State Law (Costa-Hawkins Bill: AB 1164)

Old Business:

Amend Rules and Regulations Section 6.10 to Conform to the Order of the Court in the Case of Hislop v. Rent Board (Superior Court No. 972898)

June 25, 1996 - NO MEETING

XI. Adjournment

President Becker adjourned the meeting at 8:30 p.m.



LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

June 7, 1996

NOTICE OF PUBLIC HEARING

DOCUMENTS DEPT.

DATE:	JUNE 18, 1996	JUN 12 1996
TIME:	6:30 P.M.	SAN FRANCISCO PUBLIC LIBRARY
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA	

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE WHICH AFFECTS THE ABILITY OF LANDLORDS TO CHARGE A NEW RENT WHEN THERE IS A CHANGE OF TENANTS. THE AMENDMENTS TO SECTION 6.14 ARE INTENDED TO CONFORM THE RULES AND REGULATIONS WITH RECENT CHANGES TO STATE LAW (COSTA-HAWKINS BILL, AB 1164) AS THEY PERTAIN TO THIS SECTION. PLEASE NOTE THAT NEW WORDING IS UNDERLINED AND DELETIONS ARE IN DOUBLE BRACKETS [[]].

Section 6.14 Agreements to Pay Additional Rent for Change of Tenants
(Additions underlined; deletions in double brackets)

[[(a) A tenant is any tenant residing at the premises with the landlord's permission, toleration, passive consent, or per written or oral agreement with the landlord, at any time since the Rent Ordinance was adopted on June 12, 1979. The landlord's approval or permission to rent to an original tenant may be express, implied, or inferred from the behavior of the parties.]]

PAGE 2
NOTICE OF PUBLIC HEARING, SECTION 6.14

(a) A tenant is any person residing at the premises at any time since the Rent Ordinance was adopted on June 16, 1979, who satisfied any one of the following criteria:

(1) has a written or oral agreement with the landlord; or

(2) has the landlord's permission; or

(3) resides at the premises with the landlord's toleration or passive consent, unless there is a written covenant prohibiting sublease or assignment; or

(4) if there is a written covenant prohibiting sublease or assignment, then as to whom the landlord has waived the enforcement of that covenant. With respect to this subsection, waiver can be shown through any words or conduct demonstrating that the landlord knowingly has relinquished his or her right to enforce any such covenant, except that acceptance of rent by the landlord shall not by itself operate as a waiver unless the owner has received written notice from the tenant that is a party to the written covenant and thereafter accepted rent.

(b) When one of the tenants as defined above resides in the unit, a new co-tenant or tenant does not create a new tenancy for purposes of the Rent Ordinance or otherwise change the terms and conditions of the tenancy. This subsection, however, shall not prevent the landlord from enforcing any rights he or she might have under a written covenant prohibiting sublease or assignment. [[For example, "A" rents unit 1 in 1983; "B" moves into unit 1 with A in 1985. The landlord acquires knowledge of B living in unit 1 with A shortly after B moved in because B called the landlord to make repairs in the unit. When A moves out in 1988, the landlord may not change the terms and conditions of tenancy or treat unit 1 as a new tenancy because A and B meet the definition of a tenant as described in subsection (A) above.]]

(c) A landlord may reach a written agreement or serve written notice upon all of the tenant(s) as defined in subsection (a) above that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. A complete copy or reasonable restatement of the Section 6.14 shall be attached to or incorporated into any written agreement or notice. Both the landlord and tenant(s) have a separate and distinct duty to provide a copy of any such written agreement to any new co-tenant(s). Failure of the landlord to provide a copy of such written agreement or written notice to any new co-tenants of which the landlord is aware within 60 days of the date the landlord becomes aware shall be considered evidence of the landlord's toleration, passive consent, or waiver of any covenant against sublease or assignment.

[[(d) In any event, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord gives the new co-tenant written notice that

she/he is not considered a tenant under subsection (a) above, within 60 days of the date that the landlord learns of the co-tenant's presence in the unit. A landlord may comply with subsection (c) and this subsection (d) simultaneously.]]

(d) For Proposition I Affected Units, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord has not accepted the new co-tenant as a tenant pursuant to applicable law and the landlord gives the new co-tenant written notice on or before August 13, 1995 that she/he is not considered a tenant under subsection (a) above. This subsection (e) applies only to tenancies that commenced prior to February 15, 1995. For tenancies that commenced on or after

February 14, 1995, the provisions of subsection (a) shall apply. [[60-day notice requirement contained in subsection (d) above shall apply. A landlord may comply with subsection (c) and this subsection (e) simultaneously.]]

You may either comment at the public hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the department no later than **5 p.m. on Thursday, June 13, 1996**, so that the Commissioners can be mailed your comments and review them prior to the hearing. Written comments may also be submitted prior to the hearing. Please submit **12 copies** of your comments in order facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing.

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 6:00 P.M.,
(Please note changed meeting time)

June 18, 1996

25 Van Ness Avenue, #70, Lower Level

LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

SF
R52

#1

6/18/96

Public Hearing

AGENDA

DOCUMENTS DEPT.

JUN 13 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 478 Warren Dr. #715

Q001-56A

The landlord appeals a decision partially granting a claim of decreased housing services.

B. 165 Jordan Ave. #4

Q001-57A

The landlord appeals a decision determining rent overpayments due to the delayed imposition of a rent increase based on a new tenancy pursuant to Rules and Regulations Section 6.14.

C. 1534 Chesnut St.

Q001-58A & Q001-66R

The landlord and the tenant appeal the decision granting a rent increase based on comparables.

VI. Public Hearing:

6:30 Proposed Amendments to Rules and Regulations Section 6.14 in Order to Conform that Section to the Requirements of the Costa-Hawkins Bill (AB 1164)

VII. Communications

VIII. Director's Report

IX. Old Business

Amend Rules and Regulations Section 6.10 to Conform to the Order of the Court in the Case of Collier and Hislop v. S.F. Rent Board (Superior Court Case No. 972898)

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,Tuesday, June 18, 1996 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

JUN 25 1996

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President Becker called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner; Marshall;
Moore; Mosser; Murphy; Palma;
Wasserman.

Staff Present: Grubb; Wolf.

III. Approval of the MinutesMSC: To approve the Minutes of June 4, 1996.
(Marshall/Lightner: 5-0)IV. Consideration of Appeals

A. 478 Warren Dr. #715

Q001-56A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$2,400.00 due to an extensive problem with pigeons landing, nesting and defecating on the balcony and deck of her unit. On appeal, the landlord alleges that a 25% per month reduction in rent for this problem is excessive and an abuse of the hearing officer's discretion; that the landlord took reasonable steps to eliminate the problem but the tenant repeatedly impeded the landlord's efforts; and that there are many factual errors in the decision.

MSC: To accept the appeal and remand the case to the hearing officer on the record to adjust the amount of the rent reduction for the months when the problem was ameliorated.
(Marshall/Becker: 5-0)

B. 165 Jordan Ave. #4

Q001-57A

The tenant's petition alleging an unlawful increase in rent was granted, and the hearing officer determined that the tenant was not liable to pay a noticed increase in the amount of \$154.00 per month because the amount was

excessive and the increase was the second within a 12-month period. The landlord attempted to impose the increase pursuant to Rules and Regulations Section 6.14 because the last of the original tenants had vacated the premises three years prior, but the hearing officer found that the new rental amount must be set at the time the last original tenant vacates and that the landlord had waited too long. On appeal, the landlord asserts that Section 6.14 simply says that when the last original tenant vacates a new tenancy is created for purposes of determining the rent, but does not specify when the new rental amount must be imposed.

MSC: To deny the appeal. (Palma/Marshall: 4-1; Gruber dissenting)

C. 1534 Chesnut St.

Q001-58A & Q001-66R

The landlord's petition for a rent increase based on comparables was granted. Although the hearing officer determined that the rent for the unit had not been increased for twenty years due to the friendship between the prior owner and the tenant, it was not proved that the initial rent had been set low for any reason. Pursuant to the Court's decision in the case of Vega v. City of West Hollywood (1990) 223 Cal.App.3d 1343, the hearing officer granted a rent consistent with the amount that would have been allowed had the unit been under the Ordinance, resulting in an increase from \$400.00 to \$762.17. The landlord appeals the decision on the grounds that, even upon imposition of the increase allowed, the rent for the unit will still be less than half of the current market rent. The tenant also appeals the decision, claiming that: the hearing officer abused her discretion in applying an arbitrary method for determining the allowable amount of increase in that the landlord failed to meet his burden of proof; by allowing annual increase amounts prior to 1982, the hearing officer places the landlord in a better position than if the unit had been subject to the Ordinance; and the tenant faces a potential future hardship should her adult daughter vacate the unit.

MSC: To accept the appeals and remand the case on the issue of comparables. (Lightner/Gruber: 5-0)

V. Public Hearing

Proposed Amendments to Rules and Regulations Section 6.14 in Order to Conform that Section to the Requirements of the Costa-Hawkins Bill (AB 1164)

A Public Hearing on amendments to Rules and Regulations Section 6.14 drafted by prior Commissioner Jonathan Hayden commenced at 7:10 p.m. and concluded at 8:20 p.m. Thirty-two individuals spoke; twenty-three landlords and nine tenants. Prior to the commencement of public testimony, Janan New of the S.F. Apartment Association voiced a concern regarding the neutrality of Commissioner Neli Palma, in that she was involved in lobbying efforts against passage of the Costa-Hawkins Bill. Commissioner Palma informed those in

attendance that she had discussed this issue with the Office of the City Attorney, and was advised that there is no legal conflict.

The consensus sentiment of the landlords who testified was as follows: the proposed amendment does not comply with the provisions of the Costa-Hawkins Bill; if acceptance of rent does not constitute a waiver of a landlord's right to enforce a covenant prohibiting subletting or assignment, some lesser action cannot be considered such a waiver; the burden of notification that there is a new occupant in a unit should be on the tenant, and the landlord should not be forced to "snoop around" to discern who is living in the unit, which also violates tenants' privacy; a landlord cannot assure the security of the premises without control over who lives there; the proposal is an attempt to circumvent vacancy decontrol and continue the implementation of Section 6.14 as it is; and the re-draft is confusing, ambiguous, and should be simplified and clarified.

The tenants present expressed the following opinions: the proposed draft was authored by a previous neutral Commissioner and strikes a middle ground; ending the requirement for 6.14 notices would create more confusion; the Board's purpose is the preservation of San Francisco's rent control law and the dictates of State law should be followed in a manner that least impacts our Rules; there currently is an extremely low vacancy rate with resulting higher rents and incumbent homelessness - this economic climate should mitigate the need for additional rent increases; the proposed draft is still too complicated; many of the tenants affected by Section 6.14 are health caretakers and/or members of non-traditional families, whose continued presence in San Francisco is essential to protect the diversity for which the City is known; and the proposed definition of "original tenant" is consistent with the definition of "tenant" in the Ordinance and all that is required for compliance is to specify that acceptance of rent does not in and of itself constitute waiver.

After discussion, the Commissioners passed the following motion:

MSC: To have Commissioner Wasserman draft changes to the proposed revision of Rules and Regulations Section 6.14 which will be discussed at the meeting on July 2, 1996; and to postpone the Public Hearing on proposed changes to Rules and Regulations Section 10.10 regarding the issue of constructive notice, originally scheduled on July 2nd.
(Lightner/Gruber: 5-0)

VI. Communications

In addition to correspondence regarding appeals on the calendar and the proposed revision to Rules and Regulations Section 6.14, the Commissioners received the following communications:

A. The office workload statistics for the month of May, 1996.

B. A letter from the Executive Director of the Bernal Heights Housing Corporation in support of Commissioner Neli Palma's appointment to the Rent Board.

C. A copy of proposed legislation amending the owner move-in sections of the Rent Ordinance introduced by Supervisor Yaki on Monday, June 17, 1996.

VII. Old Business

Amend Rules and Regulations Section 6.10 to Conform to the Order of the Court in the Case of Collier and Hislop v. S.F. Rent Board (Superior Court Case No. 972898)

In accordance with the Court's Order Directing Issuance of Peremptory Writ of Mandate, which prohibited implementation of Rules Section 6.10(b)(4) as amended on June 6, 1995, the Commissioners passed the following motion:

MSC: To amend Rules and Regulations Section 6.10 in compliance with the Order of the Court in the case of Collier and Hislop v. S.F. Rent Board (Superior Court Case No. 972898), including deletion of any references to "Special Real Estate Taxes". Rules Section 6.10 will revert to the version in effect as of May 24, 1994, except for certain technical changes of a non-substantive nature which were included in the June 6, 1995 amendments, which shall remain. (Palma/Marshall: 5-0)

VIII. Remarks from the Public

Two landlords and one tenant offered some additional comments augmenting their testimony regarding the proposed amendments to Rules and Regulations Section 6.14, which were the subject of the earlier Public Hearing.

IX. New Business

A. Commissioner Marshall provided the Board members with a Memorandum from staff Capital Improvements Specialist Rod Wong showing the economic impact of extending the amortization schedules for seismic renovation work to 30 years. This issue will be discussed at the meeting on July 2, 1996.

B. Deputy Director Delene Wolf gave the Commissioners a Memorandum detailing some suggested "clean-up" amendments to the Rules and Regulations which are of a non-substantive nature. With the Board's approval, these proposed changes could be put out for public comment at the time of the Public Hearing on proposed changes to Rules and Regulations Section 10.10 regarding the issue of constructive notice, which has been re-scheduled for August 6, 1996.

X. Calendar Items

June 25, 1996 - NO MEETING

July 2, 1996

3 appeal considerations

Old Business:

- A. Rules and Regulations Section 6.14 (Costa-Hawkins)
- B. Extended Amortization Schedules for Seismic Work

July 9 & 16, 1996 - NO MEETINGS

XI. Adjournment

President Becker adjourned the meeting at 10:05 p.m.



JUL 01 1996

SAN FRANCISCO
PUBLIC LIBRARYWILLIE L. BROWN, JR.
MAYORLARRY BEACH BECKER
PRESIDENT

NOTICE TO THE PUBLIC

JOSEPH GRUBB
EXECUTIVE DIRECTORMERRIE T. LIGHTNER
VICE-PRESIDENTMemorandum/
Releases

JUNE 28, 1996

PROPOSED AMENDMENTS TO THE RULES AND
REGULATIONS, SECTION 6.14SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

The following text is the current 6.14 proposal with modifications by Commissioner Wasserman as requested by the Commission at the June 23, 1996 commission hearing on Rule 6.14. Commissioner Wasserman's additions to the text have been italicized and bolded for ease of identification. Please note that the changes made by Commissioner Wasserman do not substantively change the proposed language as presented at the Public Hearing held on this matter on June 23, 1996.

The Commission will continue their discussion of Rule 6.14 at the next Commission meeting, July 2, 1996 at 5:30 p.m., 25 Van Ness Ave, Suite 70 on the Lower Level, under item VIII, Old Business. Comments may be made during either of the Public Comment periods or they may be submitted in writing prior to or at the meeting.

Section 6.14 Agreements to Pay Additional Rent for Change of Tenants
(Additions underlined; deletions in double brackets)

[[(a) A tenant is any tenant residing at the premises with the landlord's permission, toleration, passive consent, or per written or oral agreement with the landlord, at any time since the Rent Ordinance was adopted on June 12, 1979. The landlord's approval or permission to rent to an original tenant may be express, implied, or inferred from the behavior of the parties.]]

(a) A tenant is any person residing at the premises at any time since the Rent Ordinance was adopted on June 16, 1979, who satisfied any one of the following criteria:

(1) has a written or oral agreement with the landlord; or

(2) has the landlord's permission; or

(3) if the then applicable lease or other occupancy agreement does not contain a written covenant prohibiting sublease or assignment, then the person permanently resides at the premises with the landlord's knowledge and consent; or

(4) if the then applicable lease or other occupancy agreement contains a written covenant prohibiting sublease or assignment, then as to whom the landlord has waived the enforcement of that covenant. With respect to this subsection, the tenant or other person attempting to assert a waiver, must show through any words or conduct that the landlord knowingly has relinquished his or her right to enforce any such covenant, except that acceptance of rent by the landlord shall not by itself operate as a waiver unless the owner has received written notice from the tenant that is a party to the written covenant and thereafter accepted rent.

(b) When one of the tenants as defined above resides in the unit, a new co-tenant or tenant does not create a new tenancy for purposes of the Rent Ordinance or otherwise change the terms and conditions of the tenancy. This subsection, however, shall not prevent the landlord from enforcing any rights he or she might have under a written covenant prohibiting sublease or assignment. [[For example, "A" rents unit 1 in 1983; "B" moves into unit 1 with A in 1985. The landlord acquires knowledge of B living in unit 1 with A shortly after B moved in because B called the landlord to make repairs in the unit. When A moves out in 1988, the landlord may not change the terms and conditions of tenancy or treat unit 1 as a new tenancy because A and B meet the definition of a tenant as described in subsection (A) above.]]

(c) A landlord may reach a written agreement or serve written notice upon all of the tenant(s) as defined in subsection (a) above that when the last of the tenant(s) who meet the latter definition vacates the premises, a new tenancy is created for purposes of determining the rent under the Rent Ordinance. A complete copy or reasonable restatement of the Section 6.14 shall be attached to or incorporated into any written agreement or notice. Both the landlord and tenant(s) have a separate and distinct duty to provide a copy of any such written agreement to any new co-tenant(s). Failure of the landlord to provide a copy of such written agreement or written notice to any new co-tenants of which the landlord has actual knowledge within 60 days of the date the landlord becomes aware shall be considered evidence of the landlord's knowledge and consent to such co-tenant or waiver of any covenant against sublease or assignment.

[[(d) In any event, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord gives the new co-tenant written notice that she/he is not considered a tenant under subsection (a) above, within 60 days of the date that the landlord learns of the co-tenant's presence in the unit. A landlord may comply with subsection (c) and this subsection (d) simultaneously.]]

(d) For Proposition I Affected Units, a new co-tenant shall be considered a tenant as defined in subsection (a) above unless the landlord has not accepted the new co-tenant as a tenant pursuant to applicable law and the landlord gives the new co-tenant written notice on or before August 13, 1995 that she/he is not considered a

tenant under subsection (a) above. This subsection (e) applies only to tenancies that commenced prior to February 15, 1995. For tenancies that commenced on or after February 14, 1995, the provisions of subsection (a) shall apply. [[60-day notice requirement contained in subsection (d) above shall apply. A landlord may comply with subsection (c) and this subsection (e) simultaneously.]]

City and County of San Francisco

Residential Rent Stabilization and Arbitration Board



LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,

July 2, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

JUN 25 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
- A. 1039 Page St. Q001-59A
- The landlord appeals a decision partially certifying capital improvement costs.
- B. 99 Jersey St. #7 Q001-60A
- The landlords appeal a decision granting a claim of unlawful rent increase.
- C. Northpoint Apartments Q001-67R thru Q002-02R
- Thirty-five tenants appeal the decision certifying capital improvement costs; three of the tenants claim financial hardship.
- VI. Communications
- VII. Director's Report
- VIII. Old Business
- A. Rules and Regulations Section 6.14 (Costa-Hawkins Bill)
- B. Extended Amortization Schedules for Seismic Work
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accmtg

≡ MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,Tuesday, July 2, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

AUG 02 1996

SAN FRANCISCO
PUBLIC LIBRARYI. Call to Order

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:	Becker; Gruber; Marshall; Palma.
Commissioners not Present:	Bierly; Wasserman.
Staff Present:	Grubb.

Commissioners Moore and Mosser appeared on the record at 5:41 p.m.;
Commissioner Lightner at 5:46 p.m.; and Commissioner Murphy at 6:07
p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 18, 1996.
(Marshall/Palma 4-0)

IV. Remarks from the Public

Robert Pender spoke about the form used by the school district for exemption for seniors from Proposition B and expressed his concerns about the privacy of the information requested. Attorney Nancy Lenvin distributed a proposal for revisions to Rules and Regulations Section 6.14.

V. Consideration of Appeals

A. 1039 Page St.

Q001-59A

The landlord's petition for certification of the costs of repair to the back porch and stairs, foundation work and exterior painting was granted, in part. The work on the back porch and stairs was found to be in the nature of repair, rather than capital improvement, and the hearing officer disallowed \$6,119.45 in claimed costs for the foundation because the landlord failed to submit adequate documentation. On appeal, the landlord submits three additional canceled checks which he maintains support his claimed cost; and asserts that the hearing officer erred in determining that notices of rent increase were null and void due to having been sent prior to the petition having been filed. Rather, the



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(11/95) lk/comm/accmgt

landlord states that he delivered the notices to the tenants on his way home from the Rent Board office after having filed the petition.

MSC: To accept the appeal and remand the case to the hearing officer on the record to allow the hearing officer to consider the owner's statement as to the time of delivery of the notice and to permit the tenants 15 days to respond to the statement. The case is also remanded on the record for consideration by the hearing officer of the checks submitted with the appeal as proof of payment for the rear stairs repair.
(Lightner/Gruber: 5-0)

B. 99 Jersey St. #7

Q001-60A

The tenants' petition alleging an unlawful increase in rent was granted and the landlords were found liable to the tenants in the amount of \$2,662.45 due to a rent increase based on vacancy decontrol that was given to a subtenant upon the original tenant no longer permanently residing in the unit. The hearing officer found that the landlords knew of the presence of the subtenant in the unit and, although they may have mistakenly believed that the original tenant still resided on the premises and/or believed or were led by the tenants to believe that the subtenancy was to be temporary, they were still required to serve the tenants with a notice pursuant to the requirements of Section 6.14 of the Rules and Regulations. On appeal, the landlords argue that: the Board has no jurisdiction over this case because the original tenant was no longer residing in the unit at the time the petition was filed; the tenants' petition constitutes an abuse of process because the subtenant gave a notice of termination of tenancy the day after filing the petition; "subletting" is a legal issue not properly before the Board; the hearing officer demonstrated bias towards the tenants by allowing submissions after the close of the record and granting them extra time to submit documentary evidence, although they were represented by counsel; Rules and Regulations Section 6.14 is inapplicable to the instant facts; the parties resolved this matter among themselves three years ago with terms favorable to the tenant; and the landlords should have been given credit for a \$10.00 rent increase that was noticed but not collected.

MSC: To deny the appeal as to all issues.
(Marshall/Becker: 3-2; Lightner, Gruber dissenting)

C. Northpoint Apartments

Q001-67R thru Q002-02R

The landlord's petition for certification of capital improvement costs in the amount of \$1,196,133.51 to the tenants in 268 of the 514 units in the complex was granted, in part, resulting in a monthly passthrough in the amount of \$31.32. Thirty-five tenants appeal the decision, three on the grounds of financial hardship. The tenant-appellants assert that the costs should be disallowed because the work consisted of "luxury improvements not in keeping with the socioeconomic status of existing tenants" in accordance with Rules and Regulations Section 7.15; and that the upgrades were performed in order to

attract and retain corporate, executive and vacation tenancies rather than to benefit long-term residential tenants.

MSC: To deny the appeals except for that of tenant James Butler at 2310 Powell #303, which shall be remanded for a hearing on the tenant's claim of financial hardship.
(Lightner/Gruber: 3-2; Becker, Marshall dissenting)

VI. Communications

The Commissioners received the following communications:

- A. Several letters concerning Rules and Regulations Section 6.14.
- B. A letter from landlord Martin Gumbel concerning the inadequacy of the amount of the annual allowable increase.

VII. Old Business

- A. Rules and Regulations Section 6.14 (Costa-Hawkins Bill)

Commissioner Wasserman's proposed revision of Section 6.14 was discussed along with Ms. Lenvin's proposals, and the below motions were made:

MSC: To adopt Commissioner Wasserman's version dated June 28, 1996, with the addition of the word "tenancy" between the words "oral" and "agreement" in (a)(1).
(Marshall/Becker: 3-2; Gruber, Lightner dissenting)

MSC: To make Commissioner Wasserman's memorandum dated July 2, 1996 concerning Rules and Regulations Section 6.14 part of the record as a policy statement of the Board.
(Lightner/Palma: 3-2; Becker, Marshall dissenting)

MSF: To make the adopted amendment to Rule 6.14 retroactive to January 1, 1996.
(Lightner/Gruber: 2-3; Becker, Marshall, Palma dissenting)

- B. Extended Amortization Schedules for Seismic Work

Commissioner Marshall indicated that staff had proposed some changes to her draft proposal to extend amortization periods for seismic renovation work to thirty years. Commissioner Murphy stated his belief that the proposal conflicts with the Unreinforced Masonry Building (UMB) Ordinance with respect to the limitations on the passthrough amounts permitted. Commissioner Marshall will review the UMB Ordinance on this matter.

IV. Remarks from the Public (cont.)

Members of the public made comments as follows: drafts of proposed amendments should be distributed as quickly as possible to permit timely responses by the public; an interpretation of the applicability of revised Rule 6.14 to a specific situation was requested; a query was made as to the scheduling of the Public Hearing on proposed amendments to Rules Section 10.10 regarding the issue of constructive notice; a comment on the financial hardship that the cost of the UMB work imposes on some tenants was made; a concern was raised that amended Rule 6.14 was confusing; it was requested that deleted language be included when printing a proposed Rule change; and a request for a copy of Board policies was made.

VIII. New Business

President Becker spoke of the pending termination of staff member Roger Levin due to the return of another staff member to the position. President Becker asked that the Board indicate its support for a departmental request for an additional position that would allow the department to retain the services of Mr. Levin. Executive Director Grubb stated that the department has received numerous letters in support of Mr. Levin and his efforts as a staff member. The Commission indicated by consensus its support for the request of an additional counselor position.

IX. Calendar Items

July 9, 16, 23 & 30, 1996 - NO MEETINGS

August 6, 1996

2 appeal considerations (1 rescheduled from 7/23/96)

Public Hearing: Proposed Amendments to Rules Section 10.10 Regarding the Issue of Constructive Notice

Old Business: Extended Amortization Schedules for Seismic Work

X. Adjournment

President Becker adjourned the meeting at 9:10 p.m.



SF
R52
#1
8/6/96

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JUL 19 1996

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WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

LARRY BEACH BECKER
PRESIDENT

July 18, 1996

MERRIE T. LIGHTNER
VICE-PRESIDENT

NOTICE OF PUBLIC HEARING

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

DATE: AUGUST 6, 1996
TIME: 6:00 P.M.
PLACE: 25 VAN NESS AVENUE (AT MARKET ST.)
SUITE 70, LOWER LEVEL
SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE ON THE ISSUE(S) BELOW:

SECTION 10.10

These amendments concern as to the issues of the landlord's actual and constructive notice of decreased housing services.

SECTION 1.12

This is a non-substantive amendment intended to clarify when the owner can impose a banked increase after Proposition H. The intent of this section is to allow landlords to "bank" the 4% they could have imposed prior to the passage of Proposition H and the lowering of the annual increase amount to 1.6%, even if the requisite 2 year-period for banking hadn't transpired. However, it currently reads as a time limitation for imposition of the increase.

SECTION 8.12

This is a non-substantive amendment to change the name to Department of Building Inspection from its prior name of Department of Public Works.

SECTION 12.18

This is a non-substantive amendment to change a reference to Section 37.2(b)(6) to 37.2(b)(5). This Ordinance Section was renumbered due to a previous change in the Ordinance.



ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accommtg

1 **PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS**
2 **Public Hearing on these amendments will be held on August 6, 1996.**

3 **(New text is underlined and bold, [[deleted sections are in double**
4 **brackets]])**

5 Written comments may be sent to the Rent Board. As the Commission often receives
6 many comments, they should be in the office no later than **Tuesday July 30,**
7 **1996,** so that the Commissioners will have time to review them prior to the meeting.
8 12 copies are requested. While written comments may be submitted after this date or
at the hearing, the opportunity to have your written comments fully considered may
be jeopardized. Interested parties will also have an opportunity to speak on the
amendments during the public hearing. Please note that a three-minute speaking
rule may be imposed.

9 **Section 10.10 Decrease in Services**

10 (a) A tenant may petition for a reduction of base rent where a landlord, without a
11 corresponding reduction in rent, has (1) substantially decreased housing services, including any
12 service added after commencement of the tenancy and for which additional consideration was
13 paid when it was provided, or (2) failed to provide housing services reasonably expected
14 under the circumstances, or (3) failed to provide a housing service verifiably promised by the
landlord prior to commencement of the tenancy.

15 (b) A petition for arbitration based on decreased services shall be filed on a form
16 supplied by the Board. The petition shall be accompanied by a statement setting forth the
17 nature and value of the service for which the decrease is being sought, and the date the
decrease began and ended, if applicable.

18 [(c) Except in extraordinary circumstances, or where there have been long term
19 verifiable oral or written notices to a landlord of decreased services, no rent decrease will be
20 allowed prior to one year preceding the filing of the petition.]]

21 **(c) No rent decrease as requested in the tenant's petition will be allowed**
22 **prior to one year preceding the filing of the petition except where one of the**
23 **following is found:**

24 **(1) extraordinary circumstances;**

25 **(2) where there has been long term notice, oral or written, from any**
26 **source, regarding such decrease occurring in the interior of the tenant's unit;**

27 **(3) where there has been actual notice, oral or written, from any**
28 **source, and/or constructive notice regarding such decrease occurring in any common**
area;

(4) where the decreases are shown to predate the tenancy, and where
constructive notice is found.

(d) For the purposes of this section, notice is defined as follows:

(1) Actual Notice: Actual notice occurs when any person, or entity, informs the landlord, or the landlord's agents, orally or in writing, of an alleged, or actual, decrease in housing services as defined in the Rent Ordinance at Section 37.2(g).

(2) Constructive Notice: Constructive notice occurs when a decrease in housing services exists and the landlord could have, or should have, known about the defect. Landlords are responsible for periodic inspections of the common areas of the residential structures that they offer for rent. Therefore, landlords are deemed to have notice of the condition of the common areas of the buildings that they rent. The frequency of periodic inspections depends on the facts and circumstances of each individual building, as modified by the landlord's actual knowledge and/or notice received. Additionally, landlords are responsible to inspect the interior of each and every unit which they offer for rent, prior to renting, and are deemed to have knowledge regarding the condition thereof. However, when a reasonable inspection, in a vacant unit, or in the common area, fails to reveal a hidden defect, constructive notice shall not be found. (For example, if between tenancies, a landlord inspects an empty apartment and checks to see that the heater works, which actually turns on and begins to heat, that landlord shall not be held to be on constructive notice that the thermostat is not accurate.)

(e) With respect to Newly Covered Units, the earliest permissible effective date for any rent decrease allowed under this Section 10.10 shall be December 22, 1994; provided, however, that the initial base rent, as defined by Section 37.12(a) of the Rent Ordinance shall include all housing services provided or reasonably expected on May 1, 1994, or as of the commencement of the tenancy, whichever is later.

[[(d)]] (f) Except where a failure to repair and maintain results in a substantial decrease in housing services, any relief granted by the Board under this section shall preclude relief under Section 10.11 below. This provision shall not limit any civil remedies that would otherwise be available to a tenant or landlord.]] (Renumbered as "f)" below)

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1 **Section 1.12 Annual Rent Increase**

2 (a) Where a landlord is entitled to an annual rent increase to be effective from
3 December 8, 1992 through February 28, 1993, the allowable amount of increase is 1.6%.
4 Thereafter, the annual allowable increase determined by the Board shall become effective each
5 March 1, and shall be no more than 60% of the percentage increase in the Consumer Price
6 Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose region as
7 published by the U.S. Department of Labor for the 12 month period ending November 30. In
8 determining the allowable percentage rent increase, numbers of .04 and below shall be rounded
9 down to the nearest tenth decimal place, and numbers of .05 and above shall be rounded up to
10 the nearest tenth decimal place. In no event, however, shall the allowable annual increase be
11 greater than seven percent (7%). The Rent Board shall publish the annual allowable increase
12 amount on or about January 1. The published increase shall be determined only once for each
13 12 month period and shall remain in effect until the next scheduled recalculation.

14 (b) Where a landlord was entitled to an annual rent increase between March 1,
15 1992 and December 7, 1992, the allowable amount of increase is 4%. The landlord may
16 impose the increase at any time, even if two years have not elapsed since the
17 effective date of the last annual increase. [[If a landlord did not impose the 4% increase to
18 which the landlord was entitled during the period March 1, 1992 to December 7, 1992, the
19 landlord may impose the increase at any time prior to two years from the effective date of the
20 last annual increase.]]

21 (c) Where a landlord is entitled to an annual rent increase to be effective from
22 December 8, 1992 through February 28, 1993, the allowable amount of increase is 1.6%. Any
23 notice of rent increase which imposes only a 4% or less annual increase effective during the
24 above period is lawful in the amount of 1.6%, and only that portion of the increase above 1.6%
25 is null and void, provided that the increase is given in good faith without knowledge of the
26 effective date of Proposition H. Nothing in this Regulation shall affect any banking rights that
27 the landlord may have.

28 (d) For rent increases effective during the period December 8, 1992 through
February 28, 1993, where a tenant has received a notice of increase in excess of the allowable
amount but has not yet paid the requested amount, the notice shall be null and void. Nothing in
this Regulation shall affect any banking rights that the landlord may have.

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1 **Section 8.12 Application for Certification**

2 Application for certification shall be filed on a form provided by the Rent Board.

3 The application shall include:

4 (1) A tenant history, including the names of all tenants in possession at the time
5 substantial rehabilitation was noticed, their last known address, their rent at the time they left
6 voluntarily or were evicted, which tenants were evicted, the names and unit number of any
7 current tenants and their current rents;

8 (2) A detailed description of the substantial rehabilitation work itemizing all costs,
9 including but not limited to site improvements, paving and surfacing, concrete, masonry, metals,
10 wood and plastic, thermal and moisture protection, doors and windows, finishes, specialties,
11 equipment, furnishings, conveying systems, mechanical and electrical work;

12 (3) Evidence that the building is over 50 years old;

13 (4) A determination of condemnation, and/or

14 (5) A determination by the Department of Building Inspection [[Department of
15 Public Works]] that the premises were ineligible for a permit of occupancy;

16 (6) A current abstract of title;

17 (7) A complete inspection report issued by the Department of Public Works made
18 prior to the commencement of rehabilitation work;

19 (8) Proof of purchase price;

20 (9) Final notice of completion from the Department of Building Inspection
21 [[Department of Public Works]];

22 (10) Copies of eviction notices to prior tenants;

23 (11) Copies of invoices, bids and canceled checks substantiating the costs for
24 which the landlord has not been compensated by insurance proceeds;

25 (12) Sufficient copies of the petition for distribution to each tenant;

26 (13) Copy of the current assessment;

27 (14) If claim is made for uncompensated labor, the application shall include a log of
28 dates on which the work was performed, number of hours of work and description of the work
29 performed, and, if claim is made for electrical or plumbing work, a copy of the worker's
30 contractors license.

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1 **Section 12.18 Procedures Regarding Evictions under Section**
2 **37.9(a)(13)**

3 **NOTE: THE ONLY CHANGE TO THIS SECTION IS A NUMBERING**
4 **CHANGE ON PAGE 8, LINE 26.**

5 (a) Notice of Intent to Board [37.9A(g)(1)]

6 Prior to service of any notice on tenants to terminate their tenancy pursuant to
7 Section 37.9(a)(13) of the Ordinance, the owner shall serve on the Board either by personal
8 delivery or by registered or certified mail a written Notice of Intention to Withdraw on a form
9 approved by the Board, together with a Memorandum of Notice as prescribed by Ordinance
10 Section 37.9A(g)(2). Such Notice of Intention shall contain a statement under penalty of perjury
11 providing the following information:

- 12 (1) The names and address of all owners of the property;
- 13 (2) The address of all residential units on the property;
- 14 (3) The legal description of the property;
- 15 (4) The name and address of each tenant residing on the property;
- 16 (5) The rent being charged each tenant at the time the notice to vacate is
17 served on the tenants;
- 18 (6) The date tenancy commenced and the rent history for each tenant
19 commencing April 1, 1981; and
- 20 (7) Any actions which the landlord has been required by law to file to
21 terminate one or more existing tenancies at the property, other than under Section 37.9(a)(13).

22 (b) Board Determination of Sufficiency of Notice of Intent [37.9A(g)(1) & (3)]

23 If the owner provides all required information on the Notice of Intent submitted
24 to the Board, the Board shall notify the owner and tenants that the notice and Memorandum are
25 sufficient and that the notice is accepted for filing. The Board shall place on the Memorandum of
26 Notice the statement required by section (c)(1) below and shall return the Memorandum to the
27 owner for recording. If the owner fails to provide a complete notice, the Board shall return the
28 notice to the owner stating in what respects it is incomplete. All information in the notice as
29 submitted, other than the address and legal description of the property, shall be kept
30 confidential and not made available to the public without a court order or the prior written
31 consent of the individuals named therein. This restraint shall not prevent the Board from making
32 public other documents which independently disclose information which would be considered
33 confidential under this section.

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1 (c) Owner's Obligation To Record Memorandum of Notice [37.9A(g)(2) & (h)]

2 (1) When the Board accepts a Notice of Intent for filing, the Board shall place
3 on the related Memorandum a statement that restraints on the property under Ordinance Section
4 37.9A and Government Code Sections 7060.2 through 7060.4 will apply to the owner's
5 successors in interest.

6 (2) Prior to the service of any notice to terminate tenancy pursuant to Section
7 37.9(a)(13) of the Ordinance and after the Board has accepted and filed the Notice of Intent to
8 withdraw residential rental units and returned the related Memorandum of Notice, the owner shall
9 record with the San Francisco County Recorder's Office a Memorandum of Notice regarding
10 withdrawal of rental unit from rent or lease. The owner shall serve upon the Rent Board by
11 personal delivery or first class mail a conformed copy of the recorded memorandum.

12 (d) Notice to Terminate Tenancy [37.9A(f) & (g)(4)]

13 (1) Any notice to terminate tenancy which relies on Rent Ordinance Section
14 37.9(a)(13) shall include notice of the following:

15 (A) that the Board has been notified of the owner's intent to withdraw the
16 units, the tenant's name and amount of rent paid;

17 (B) the amount of rent stated on the owner's Notice of Intent to the Board;
18 and

19 (C) that the tenant has rights and obligations under Section 37.9A,
20 including the tenant's right to renew the tenancy if proper notification is given within 30 days
21 after vacating the unit and the tenant's entitlement before vacating the premises to payment of
22 the sum of \$1,500.00, \$1,750.00, \$2,500.00 or \$3,000.00, whichever amount the landlord in
23 good faith believes due in the particular case.

24 (2) Within five (5) days of service of the notice to terminate tenancy, the
25 owner shall serve a copy on the Board by personal delivery or certified or registered mail.

26 (e) Obligation of Tenant to Advise Owner and Board of Desire to Consider Renewal of
27 Tenancy [37.9A(c)(1)]

28 Any tenant who is displaced by the withdrawal of a rental unit and who desires to
consider an offer to renew the tenancy pursuant to Ordinance Section 37.9A(c) in the event the
unit is again offered for rent or lease may notify the owner and the Board in writing within thirty
(30) days after vacating the unit. This notice must include an address to which the owner's
offer is to be directed. Displaced tenants should advise the owner and the Board of any
change of address to which the offer is to be directed.

(f) Obligation of Owner To Notify Board Prior to Offering Previously Withdrawn
Units For Rent Or Lease [37.9A(c)(2)]

At least thirty (30) days prior to offering to rent or lease any previously withdrawn unit within ten years after the date on which the unit became vacant pursuant to Section 37.9(a)(13) of the Ordinance, the owner must first notify the Board in writing either by personal delivery or by registered or certified mail of the intention to offer the unit for residential rent or lease.

(g) Obligation of Owner to Offer Previously Withdrawn Units to Displaced Tenants [37.9A(c)(1) & (2)]

Whenever a previously withdrawn unit is again offered for rent or lease, the owner must first offer such unit to the displaced tenants who notified the owner and the Board pursuant to Ordinance Section 37.9A(c)(1) of their wish to consider such an offer. If the tenants did not so notify the owner of their wish to consider such an offer, the owner still must first offer such unit to the displaced tenants who request the offer in writing within thirty (30) days after the owner has notified the Board of an intention to offer the unit for residential rent or lease.

(h) Owner's Liability Under Ordinance Section 37.9A [37.9A(e) & (c)(2)]

(1) If the owner offers a previously withdrawn unit for rent or lease within one year after it became vacant, the owner may be liable to the displaced tenants for actual and punitive damages as provided by Ordinance Section 37.9A(e).

(2) If the owner fails to offer previously withdrawn units to displaced tenants as prescribed by Ordinance Section 37.9A(c)(2), the owner may be liable to the displaced tenants for punitive damages as provided by Ordinance Section 37.9A(c)(2).

(i) Maximum Rents On Withdrawn Units Subsequently Offered For Rent Or Lease [37.9A(a)]

If one or more units withdrawn under Ordinance Section 37.9(a)(13) are subsequently offered for rent or lease, the maximum rent for such unit(s) is that which would have been allowed had the prior tenants remained in continuous occupancy. The owner must first petition the Board for an arbitration hearing to impose rent increases which exceed the limitations set forth in Part 4 of these Regulations.

(j) Units Constructed On The Same Property As Previously Withdrawn Units [37.9A(b)]

If one or more new residential rental units are constructed on the same property from which units were withdrawn and demolished, and such units are offered for rent or lease within five (5) years of the date the last of the original units became vacant, the newly constructed units shall be subject to the provisions of the San Francisco Rent Ordinance, notwithstanding Section 37.2(p)(5)[(6)] or any other provision of the Rent Ordinance. The

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1 Board shall determine the allowable rents on the newly constructed units which are necessary
2 to provide a fair and reasonable return.

3 (k) Owner's Obligation to Report the Status of the Withdrawn Units to the Board

4 [37.9A(i)]

5 (1) For a period of five years from the date the Board accepts the Notice of
6 Intent to Withdraw, the owner and any successor in interest must report to the Board in writing
7 under penalty of perjury by either personal delivery or certified or registered mail of the status of
8 the withdrawn units. Such report must be submitted no later than the third and sixth calendar
9 months following the month in which the Notice of Intent is accepted by the Board and thereafter
10 annually no later than December 31st of each calendar year. Such report shall provide the
11 following information for each such unit:

12 (A) whether the unit has been demolished;

13 (B) if not, whether it is in use and whether it is in residential use;

14 (C) if the unit has been demolished and one or more new units have been
15 constructed on the property, whether any units are in residential use; and

16 (D) the date any residential tenancy began, the name(s) of the tenant(s)
17 and the amount of rent charged.

18 (2) The Board shall maintain a record of such reports and may investigate the
19 status of the property when such reports are improperly completed or untimely submitted.

20 (3) The Board shall endeavor to notify each person who is reported as
21 having become a tenant at the property that the Board maintains a record of such reports and
22 that the rent of the unit may be restricted.

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SF
R52NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

#1

8/6/96

Public Hearing

Tuesday, 5:30 p.m.,

August 6, 1996

25 Van Ness Avenue, #70, Lower Level

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AGENDA

AUG 02 1996

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 1014 Florida St. Q001-61A

The landlord appeals a decision partially granting a claim of decreased housing services.

B. 105 Chenery St. R001-01A

The landlord appeals the remand decision granting a claim of decreased housing services.

C. 10 Julius St. R001-02A

The landlord appeals the decision granting claims of substantial decreases in housing services.

D. 1501 8th Ave. #D R001-01R & R001-02R

Two tenants in one unit appeal the decision granting certification of capital improvement costs on the grounds of financial hardship.

- VI. Public Hearing

6:00 Proposed Amendments to Rules and Regulations Section 10.10
Regarding the Issue of Constructive Notice; and Non-Substantive
Changes to Rules and Regulations Sections 1.12, 8.12 and 12.18

- VII. Communications

- VIII. Director's Report

IX. Old Business

Extended Amortization Schedules for Seismic Work

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, August 6, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

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AUG 14 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Becker called the meeting to order at 5:36 p.m.

II. Roll Call

Commissioners Present: Becker; Lightner; Marshall; Mosser; Palma.
Commissioners not Present: Bierly; Wasserman.
Staff Present: Wolf.

Commissioner Gruber appeared on the record at 5:38 p.m.; Commissioner Murphy arrived at 5:45 p.m.; and Commissioner Moore appeared at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 2, 1996.
(Marshall/Palma: 5-0)

IV. Consideration of Appeals

A. 1014 Florida St.

Q001-61A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$2,945.00 due to serious habitability problems on the premises for the period October 1, 1992 through June 30, 1996. On appeal, the landlord maintains that the rent reductions should cease as of February 6, 1996, as all necessary repairs had been made as of that date.

MSC: To accept the appeal and remand the case to the hearing officer for a hearing to determine the date that the conditions were abated and the rent reductions should cease.
(Marshall/Gruber: 5-0)

B. 105 Chenery St.

R001-01A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$1,035.00 due to several habitability defects on the premises. The landlord's appeal of the decision was accepted and remanded to the hearing officer only to allow the landlord to respond to a Department of Building Inspection Order of Abatement; to issue a Technical Correction to the decision; and to reconsider the length of time that rent reductions were granted for a drainage problem on the front landing. In her Decision on Remand the hearing officer upholds the original valuation of \$20.00 per month for the drainage problem, asserting that seasonal fluctuations were taken into account. The landlord appeals the remand decision, reiterating many of the issues denied upon consideration of his first appeal; asserting that the hearing officer did not appear to account for weather because the amount granted is the same as requested in the tenant's petition; and alleging that the problem is minor and does not constitute a decrease in housing services because the tenant was informed of the condition prior to the inception of the tenancy.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Lightner dissenting)

C. 10 Julius St.

R001-02A

The tenant's petition alleging substantial decreases in housing services was granted, and the landlord was found liable to the tenant in the amount of \$4,707.50 due to serious habitability defects on the premises. On appeal, the landlord alleges that all violations were corrected between the time of the hearing and the issuance of the decision; and that the motivation for the tenant's filing of the petition was his inability to pay the rent.

MSC: To accept the appeal and remand the case to the hearing officer for a hearing to determine the date that the conditions were abated, if any. (Lightner/Gruber: 5-0)

D. 1510 8th Ave. #D

R001-01R & -02R

The landlords' petition for certification of the costs of a new roof and seismic upgrading, as well as rent increases based on increased operating expenses, was granted. Two tenants in one unit appeal the decision on the basis of financial hardship

MSC: To deny both appeals. (Lightner/Becker: 5-0)

V. Public Hearing

Proposed Amendments to Rules and Regulations Section 10.10
Regarding the Issue of Constructive Notice; and Non-Substantive
Changes to Rules and Regulations Sections 1.12, 8.12 and 12.18

A Public Hearing commenced at 6:15 p.m. and concluded at 7:15 p.m. Three tenants and thirteen landlords spoke; most to the issue of adding "constructive notice" to Rules and Regulations Section 10.10. The tenants in attendance expressed their belief that the proposed amendments were merely a "sensible clarification of what already exists"; and stated their opinion that the requirement that notice must be in writing constitutes a hardship for many tenants. The landlords present articulated their opinion that tenants should be required to give written notice of defects, just as landlords are required to give written notice to tenants; that inspections of the premises by landlords could be seen as intrusions by the residents; that there is no need for the proposed amendments; that a landlord may reasonably believe that a tenant is not particularly bothered or affected by a defect on the premises, even if both parties know that it exists; and the proposed amendments may exceed the jurisdiction of the Rent Board and/or conflict with State law.

After conclusion of the Public Hearing, the Commissioners discussed the non-substantive changes suggested by staff, which include: a numbering change in Section 12.18 to refer to the proper Ordinance Section, recently amended; a correction to Section 8.12 to reflect the fact that the name of the "Department of Public Works" has been changed to the "Department of Building Inspection"; and a change in the language of Section 1.12, which allows a landlord who could have given a 4% increase prior to the passage of Proposition H and the lowering of the annual increase amount to 1.6% to still give the 4% increase, even if the requisite two-year period for banking had not expired. The Commissioners further clarified the proposed language of Section 1.12 and passed the following motion:

MSC: To pass the proposed non-substantive amendments to Rules and Regulations Sections 1.12, 8.12 and 12.18, with some additional clarifying revisions to Section 1.12.
(Marshall/Lightner: 5-0)

After a great deal of discussion and revision of the proposed amendments to Section 10.10, this issue was continued to the meeting on August 20th so that the Board members can read the re-draft in its entirety prior to voting. The following motion was made and seconded, but not voted upon:

MSC: To adopt proposed amendments to Rules and Regulations Section 10.10 as modified at the meeting on August 6, 1996; which changes shall be distributed prior to the meeting on August 20, 1996. (Becker/Marshall)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received one letter from a landlord pertaining to proposed changes to Rules and Regulations Section 10.10 concerning the issue of constructive notice.

VII. Old Business

The Board's discussion of the issue of extending amortization schedules for seismic work was continued to the meeting of August 20, 1996.

VIII. Remarks from the Public

A landlord member of the public informed Board President Becker that he did not believe the proposed amendments to Rules Section 10.10 to be "lucid."

IX. Calendar Items

August 13, 1996 - NO MEETING

August 20, 1996

4 appeal considerations

Old Business:

- A. Proposed Amendments to Rules Section 10.10 Regarding the Issue of Constructive Notice
- B. Extended Amortization Schedules for Seismic Work

August 27, 1996 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 10:00 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,

August 20, 1996

25 Van Ness Avenue, #70, Lower Level

DOCUMENTS DEPT

AGENDA

AUG 14 1996

SAN FRANCISCO
PUBLIC LIBRARY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals
- A. 2840 Greenwich St. R001-03R
- The tenant appeals a decision certifying capital improvement costs.
- B. 2047A Broadway St. R001-03A
- The landlord appeals a decision granting rent reductions due to decreased housing services.
- C. 1278 - 19th Ave. R001-04A
- The landlord appeals the decision granting claims of decreased housing services and unlawful rent increases.
- D. 686 Valencia St. #3 R001-05A
- The landlord appeals the remand decision determining rent overpayments.
- VI. Communications
- VII. Director's Report
- VIII. Old Business
- A. Proposed Amendments to Rules and Regulations Section 10.10 Regarding the Issue of Constructive Notice
- B. Extended Amortization Schedules for Seismic Work

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

SF
R52
#2
8/20/96

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD**

Tuesday, August 20, 1996 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

AUG 27 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

President Becker called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Bierly; Gruber; Lightner;
Marshall; Moore; Mosser; Murphy;
Palma.
Commissioners not Present: Wasserman.
Staff Present: Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of August 6, 1996.
(Palma/Marshall: 5-0)

IV. Remarks from the Public

An individual asked questions regarding the composition of the Commission.

V. Consideration of Appeals

A. 2840 Greenwich St.

R001-03R

The landlord's petition for certification of the costs of a new toilet, exterior siding and painting was approved, resulting in a monthly passthrough in the amount of \$136.45 to the tenant in one unit. The tenant appeals the decision, asserting that the costs of similar work done to a larger building on the same property should be taken into account in determining the reasonable cost for the work; and that the tenant should not be liable for 50% of the cost of work done to the ground floor, as the tenant has the use of less than 50% of the garage area.

MSC: To deny the appeal. (Lightner/Gruber: 4-1, Marshall dissenting)

B. 2047A Broadway St.

R001-03A

The tenant's petition alleging substantial decreases in housing services was granted, and the landlord was found liable to the tenant in the amount of \$469.15 due to lack of access to the laundry room and garage, a leaking full-length window and an inoperable garbage disposal. On appeal, the landlord asserts that the facts on the record do not support the findings in the decision; that the landlord was not given an adequate opportunity to present her case at the hearing; and that she has retained new counsel to assist in the presentation of her claim.

MSC: To deny the appeal. (Marshall/Palma: 3-2; Gruber, Lightner dissenting)

C. 1278 - 19th Ave.

R001-04A

The tenants' petition alleging substantial decreases in housing services and unlawful rent increases was granted, in part, and the landlords were found liable to the tenants in the amount of \$771.78 for the refund of rent overpayments and \$3,035.00 for rent reductions due to decreased housing services. On appeal, the landlord alleges that several of the conditions had been abated prior to the issuance of the decision; that the rent overpayments resulted from the Rent Board's failure to notify landlords of the change in the amount of the allowable annual increase from 4% to 1.6%; and that the amount of the rent reductions is excessive.

MSC: To accept the appeal and remand the case for a new hearing to determine the proper termination date, if any, for rent reductions in light of the February 16, 1996 Notice of Violation abatement. (Gruber/Palma: 5-0)

D. 686 Valencia St. #3

R001-05A

The tenant's petition alleging substantial decreases in housing services and unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$495.00 due to decreased housing services and \$434.19 due to rent overpayments during the period November 1994 through January 1995. The tenant appealed the decision on the grounds that the hearing officer should have considered unlawful rent increases back to 1982 and that he had not been given the opportunity to present evidence on this point. The tenant's appeal was accepted and remanded on the issue of the rent history only. In the Decision on Remand, the landlord is found liable for rent overpayments totaling \$4,837.53. The landlord, who failed to appear at the properly noticed remand hearing, appeals the Decision on Remand on the grounds that some of the work for which rent reductions was granted in the original decision had been performed.

MSC: To deny the appeal. (Marshall/Palma: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the office workload statistics for the month of June, 1996.

VII. Director's Report

The Executive Director announced that the office is very close to meeting mandated timelines for the scheduling of hearings and issuance of decisions due to the additional of a temporary hearing officer position, the denial of hearing officer vacation requests for the months of August and September, and the success of the mediation pilot project.

VIII. Old Business

A. Proposed Amendments to Rules and Regulations Section 10.10
Regarding the Issue of Constructive Notice

At their meeting on August 6, 1996, the Commissioners held a Public Hearing on proposed amendments to Rules and Regulations Section 10.10 regarding the issue of constructive notice. After the conclusion of the Public Hearing, the Board members discussed and extensively revised the proposed amendments, and made and seconded a motion to adopt the proposed amendments which were to be distributed in final form prior to the August 20th meeting. After further discussion and final revision, the following motion was passed:

MSC: To adopt proposed amendments to Rules and Regulations Section 10.10 as modified at the meeting on August 20, 1996. (Becker/Marshall: 4-1; Lightner dissenting)

Effective August 20, 1996, Rules and Regulations Section 10.10 reads as follows:

SECTION 10.10 REDUCTION IN SERVICES

(a) A tenant may petition for a reduction of base rent where a landlord, without a corresponding reduction in rent, has (1) substantially decreased housing services, including any service added after commencement of the tenancy and for which additional consideration was paid when it was provided, or (2) failed to provide housing services reasonably expected under the circumstances, or (3) failed to provide a housing service verifiably promised by the landlord prior to commencement of the tenancy.

(b) A petition for arbitration based on decreased services shall be filed on a form supplied by the Board. The petition shall be accompanied by a statement setting forth the nature and value of the service for which the decrease is being sought, and the date the decrease began and ended, if applicable.

(c) No rent decrease as requested in the tenant's petition will be allowed prior to one year preceding the filing of the petition except where one or more of the following is found:

(1) extraordinary circumstances;

(2) where the tenant establishes by a preponderance of the evidence that there has been long term notice, oral or written, from the tenant or other reliable source, regarding such decrease occurring in the interior of the tenant's unit, or where such condition existed in the interior of the unit at the commencement of the tenancy and the landlord had constructive notice of same; or

(3) where the tenant establishes by a preponderance of the evidence that there has been actual long term notice, oral or written, from the tenant or other reliable source, and/or constructive notice regarding such decrease occurring in any common area.

(d) For the purposes of this section, notice is defined as follows:

(1) Actual Notice: Actual notice occurs when the tenant or any reliable person or entity informs the landlord, or the landlord's agents, orally or in writing, of a decrease in housing services as defined in the Rent Ordinance at Section 37.2(g).

(2) Constructive Notice: Constructive notice occurs when a decrease in housing services exists and the landlord should have known about the condition. (For example, constructive notice may be found when a reasonable inspection would have revealed the condition in the common area at any time or in the unit prior to the commencement of the tenancy.)

(e) With respect to Newly Covered Units, the earliest permissible effective date for any rent decrease allowed under this Section 10.10 shall be December 22, 1994; provided, however, that the initial base rent, as defined by Section 37.12(a) of the Rent Ordinance, shall include all housing services provided or reasonably expected on May 1, 1994, or as of the commencement of the tenancy, whichever is later.

(f) Except where a failure to repair and maintain results in a substantial decrease in housing services, any relief granted by the Board under this section shall preclude relief under Section 10.11 below. This provision shall not limit any civil remedies that would otherwise be available to a tenant or landlord.

B. Extended Amortization Schedules for Seismic Work

The Commissioners discussed an amendment to the Rules and Regulations proposed by Commissioner Marshall which would extend the amortization schedules for seismic renovation work and resulting major structural improvements to thirty years. Commissioner Marshall expressed a concern in the tenant community that extensive seismic renovation of residential buildings will lead to large rent increases and resultant displacement of tenants. The landlord representatives on the Board questioned the necessity of such a change, articulating their belief that the 10% "cap" on capital improvement passthroughs and hardship appeal provisions of the Regulations provide a sufficient "safety net" for low-income tenants. There was also discussion of the terms of certain agreements that were made

between representatives of the tenant and landlord communities when the City's bond-financed UMB loan program was being established.

Further discussion of this issue was tabled pending a request from a Commissioner that it be put back on the calendar.

IX. Calendar Items

August 27, 1996 - NO MEETING

September 3, 1996

6 appeal considerations

New Business: Report on Mediation Pilot Project

September 10, 1996 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 8:00 p.m.



LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

SF

R52

#1

9/3/96

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Tuesday, 5:30 p.m.,
September 3, 1996
25 Van Ness Avenue, #70, Lower Level

Residential Rent Stabilization
and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

AGENDA

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 637 Green St. #5 R001-06A

The landlord appeals a decision determining rent overpayments and granting claims of decreased housing services and failure to repair.

B. 1449 Washington St. #4 R001-04R

The tenant appeals the dismissal of her petition due to her failure to appear at the hearing.

C. 571 Alvarado St. R001-07A

The landlord appeals the decision denying rent increases based on increased operating expenses but determining rent overpayments.

D. 1111 - 1133 Green St. R001-08A

The landlord appeals the denial of his petition for certification of capital improvement costs.

E. 100 Webster St. R001-05R

The tenant appeals the denial of a petition claiming decreased housing services.

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F. 3445 Clay St.

R001-09A

The landlord of a Newly Covered Unit under Proposition I appeals the decision denying rent increases based on comparables.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- Report on Mediation Pilot Project
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, September 3, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

SEP 11 1996

SHIRLEY A. BIERLY President Becker called the meeting to order at 5:45 p.m.

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PUBLIC LIBRARY

DAVID GUSTAV GRUBER

POLLY MARSHALL

II. Roll Call

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

Commissioners Present: Becker; Bierly; Marshall; Murphy.
Commissioners not Present: Lightner; Wasserman.
Staff Present: Grubb; Wolf.

Commissioners Moore and Mosser appeared on the record at 5:48 p.m.;
Commissioner Palma appeared at 5:53 p.m.; and Commissioner Gruber
arrived at the meeting at 6:03 p.m.

III. Approval of the Minutes

9/3/96

MSC: To approve the Minutes of August 20, 1996.
(Bierly/Murphy: 3-0)

IV. Remarks from the Public

Robert Pender remarked once again on the loss of businesses at the
Parkmerced shopping complex.

V. Consideration of Appeals

A. 637 Green St. #5

R001-06A

The tenant's petition alleging an unlawful rent increase, substantial decreases
in housing services and the landlord's failure to repair was granted, in part. The
landlord was found liable to the tenant in the amount of \$940.00 due to an
excessive rent increase and it was held that the landlord could not impose
annual and banked increases to which she was otherwise entitled until an
outstanding Notice of Violation had been abated. Rent reductions totaling
\$3,515.00 were also found to be owing to the tenant due to defective conditions
on the premises since the inception of the tenancy. On appeal, the landlord
asserts that the tenant failed to prove that the original base rent was \$320 rather
than \$500; and that the amount of the rent reductions granted is excessive.

MSC: To deny the appeal. (Marshall/Palma: 3-2; Mosser, Murphy dissenting)

B. 1449 Washington St. #4

The tenant's petition alleging substantial decreases in housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant admits that she made a mistake as to the date when putting the hearing on her calendar, but states that she could have taken a cab to the hearing had she been phoned at her office instead of home telephone number.

MSC: To accept the appeal and remand the case for a hearing.
(Murphy/Marshall: 5-0)

C. 571 Alvarado St.

The landlord's petition for a rent increase based on increased operating expenses was denied because the landlord failed to meet his burden of proof. The landlord of this Newly Covered Unit under Proposition I was also found liable to the tenant in the amount of \$544.00 due to a 7.2% rent increase imposed based on the past rent history of the unit, when the tenants had not been in possession of the unit for the requisite three-year period as of May 1, 1994. The landlord appeals the decision, asserting that: it would be impossible to account for all sums expended for materials and supplies, since he keeps a running stock for his real estate business; the interest paid on credit card purchases should qualify as "debt service"; it is discriminatory and an absence of equal protection to not provide for a "past rent history" increase for two and one-year tenancies; and that he has provided sufficient documentation to justify the small amount of increase that he is asking for.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

D. 1111 - 1133 Green St.

The landlord's petition for certification of the cost of several new roofs on the building was denied because the landlord failed to document full proof of what work was done to the property nor the cost of such work. The landlord appeals, claiming that the hearing officer did not attempt to determine what work was in the nature of repair and what constituted capital improvement; and that the roofer who provided a statement in support of his petition speaks little English.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

E. 100 Webster St.

The tenant's petition alleging a decrease in housing services due to the presence of rodents on the property was denied because the hearing officer found that the tenant failed to prove that the problem was substantial. On appeal, the tenant asserts that the hearing officer erred in drawing a distinction

between the presence of rats in the back yard of the property, rather than in the tenant's unit; and that the landlord's failure to appear at the hearing should have been taken into account as well as a history of code violations on the premises.

MSC: To deny the appeal. (Palma/Murphy: 5-0)

G. 3445 Clay St.

The landlord's petition for a rent increase based on comparables from \$750.00 to \$1,450.00 for this Newly Covered Unit under Proposition I was denied because the hearing officer found that the rent had not been set low due to extraordinary circumstances, and had doubled over the course of the tenancy. On appeal, the landlord alleges that the hearing officer should have taken the landlord's hardship and rate of return on the property into account in rendering the decision; that the hearing officer erred as to the circumstances surrounding the setting of the rent for the unit, because the current tenant was not a party to the agreement and therefore could not offer credible testimony; and that the hearing officer is biased against landlords.

MSC: To recuse Commissioner Moore from consideration of this appeal. (Becker/Moore: 5-0)

MSC: To deny the appeal. (Palma/Becker: 4-1; Murphy dissenting)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received a letter from Ted Gullickson of the Tenants' Union expressing some concerns regarding the Rent Board's Mediation Pilot Project and an article from the San Francisco Independent regarding the Department of Building Inspection's new "Code Enforcement Outreach Program", which contains a mediation component.

VII. New Business

Report on Mediation Pilot Project

The Executive Director reported on the success of the Rent Board's pilot Mediation Program, begun in November, 1995. Questionnaires completed by landlord and tenant participants in the mediation sessions demonstrate a high degree of enthusiasm for the process, with settlements achieved in 88% of the cases. On a 5-point scale, participants rated satisfaction with the mediated agreement at 3.7 and satisfaction with the hearing officer/mediator at 4.7. In attendance at the meeting to answer the Commissioners' questions were Senior Hearing Officer Sandra Gartzman and Hearing Officers Connie Brandon, Lela Harris and Erika Pardo.

The Commissioners expressed their general support for the program, especially with regard to speedier problem resolution, the ability to address issues outside of Rent Board jurisdiction and the fostering of a more amicable relationship between the parties. Several Commissioners articulated concerns regarding a power imbalance between landlords and tenants, and they were assured by staff that the non-waiver of rights provision contained in Ordinance Section 37.(e) was strictly adhered to in the mediation process. It was agreed that the Notice of Mediation Session would be clarified so that parties would be aware that mediation was in no way mandatory; that the Berkeley Rent Board would be contacted regarding the possibility of mediation of landlord petitions, since this is currently a part of their mediation program; and staff will draft regulations codifying the mediation process. With these assurances in place, it was the consensus of the Commission that the Board should continue to offer Mediation as well as Arbitration, as a way of further enhancing the quality of services provided to the public.

VIII. Director's Report

Executive Director Grubb reminded the Board members about the Giants game on September 12th and informed them that he will be on vacation from September 18th through September 29th.

IX. Calendar Items

September 10, 1996 - NO MEETING

6:00 September 17, 1996
6 appeal considerations

September 24, 1996 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 9:00 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

September 17, 1996

JOSEPH GRUBB
EXECUTIVE DIRECTOR

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

SEP 11 1996

SAN FRANCISCO
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- I. Call to Order
- SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER II. Roll Call
- POLLY MARSHALL
EVERETT Q. MOORE III. Approval of the Minutes
- NEVEO MOSSER
BARTHOLOMEW MURPHY IV. Remarks from the Public
- NELI NIMA PALMA
SHARON K. WASSERMAN V. Consideration of Appeals

A. 505 - 26th Ave. R001-10A

The landlord appeals the denial of his petition for rent increases due to increased operating expenses due to his failure to appear at the hearing.

B. 60 Leavenworth St. #34 R001-06R

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

C. 2737 Sutter St.
#1, 2, 3, 6, 9, 10 & 12 R001-07R thru -13R

Seven tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

D. Golden Gateway R001-11A thru -13A &
R001-14R thru -41R

The landlord and twenty-eight tenants appeal three decisions partially granting claims of decreased housing services.

E. 424 Laurel St. R001-42R

One tenant appeals a decision certifying capital improvement costs.

F. 2656 Van Ness Ave.

R001-14A

The landlord appeals a Decision on Remand upholding rent reductions due to decreased housing services.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, September 17, 1994 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT.

SEP 26 1996

SAN FRANCISCO
PUBLIC LIBRARY

I. Call to Order

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

II. Roll Call

Commissioners Present:

Bierly; Gruber; Murphy; Palma.

Commissioners not Present:

Becker; Lightner; Mosser; Wasserman.

Staff Present:

Grubb; Wolf.

Commissioner Marshall appeared on the record at 6:13 p.m.;

Commissioner Moore arrived at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 3, 1996.
(Palma/Bierly: 4-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Commissioners that legislation regarding owner move-in evictions sponsored by Supervisor Yaki will be heard before the Board of Supervisors' Housing and Land Use Committee on September 26th at 10:00 a.m.

V. Consideration of Appeals

A. 505 - 26th Ave. #1 & #3

R001-10A

The landlord's petition for rent increases based on increased operating expenses was dismissed due to his failure to appear at the properly scheduled hearing. The landlord's request for postponement of the hearing had been denied due to his failure to provide documentation of his trip outside of the country. On appeal, the landlord alleges that he did not realize that he needed to furnish such documentation, and provides a copy of a round-trip airline ticket.

MSC: To accept the appeal and remand the case for a new hearing.
(Bierly/Gruber: 5-0)

B. 60 Leavenworth St. #34

R001-06R

The tenant's petition alleging substantial decreases in housing services was dismissed due to her failure to appear at the properly noticed hearing. The tenant appeals five and one-half weeks late, alleging that she missed the hearing because of the hospitalization of her daughter. Staff had requested documentation of her daughter's illness and the reason for her untimeliness, which the tenant failed to provide. The tenant's appeal, however, raised the question of a possible language problem.

MSC: To continue consideration of this matter to the October 1, 1996 Board meeting in order for staff to attempt to contact the tenant. (Marshall/Murphy: 5-0)

C. 2737 Sutter St. #1, 2, 3, 6, 9, 10, 12

R001-07R thru -13R

The landlord's petition for certification of capital improvement costs to eight of thirteen units in the building was granted. The tenants in seven units appeal the decision on the basis of financial hardship.

MSC: To accept the appeals and remand the case to the hearing officer for a hearing on the tenants' allegations of financial hardship. (Marshall/Palma: 5-0)

D. Golden Gateway

R001-11A thru -13A &
R001-14R thru -41R

This case involves 90 tenant petitions alleging substantially decreased housing services in four residential high-rise buildings at the Golden Gateway complex. The 52 petitions that went to hearing were divided between three different hearing officers, who rendered three decisions with essentially the same Findings and Conclusions. The tenants' claims were denied as to an alleged reduction in the number of security guards and related coverage of building entrances by doormen; an alleged reduction in the level of janitorial and maintenance services on the premises; and a change in policy regarding maintenance of apartment interiors, specifically, painting, replacement and cleaning of carpets and drapes at no charge. The policy is that management makes a determination as to the need for the work and, if it is found not to be necessary, the resident is informed that the cost of the work may be the subject of a capital improvement passthrough petition or the tenant is referred to private contractors for performance of the work. The tenants prevailed on the issue of the loss of use of their decks during a 4-month period when the decks were being worked on and the landlord was found liable to each tenant in the amount of \$100 per month.

Twenty-eight tenants appeal the decision only on the issue of the change in management policy regarding interior repair and replacement, arguing that the new policy was designed to discourage and intimidate tenants from requesting

replacement and repair, and had a "chilling effect" on tenants' assertion of their rights. The landlords also appeal, asserting: that temporary removal or diminution of a housing service during necessary capital improvement work is not substantial on its face; that granting rent reductions for such temporary removal or inconvenience discourages owners from properly maintaining their property and unreasonably inflates the cost of such work; that the nature and extent of the deck loss was overstated and the amount of \$100 per month was excessive; that the subject project could be done in such a way so as to result in fewer inconveniences for the tenants, with a resulting much greater capital improvement passthrough; that the rent reductions granted constitute "damages", for which there is no authority in the Ordinance or Rules and Regulations; and that the loss of rental income imposed may constitute a "taking" as defined in recent court decisions, in that the public policy goals of the Ordinance are not being furthered while the landlord is being prevented from recoupment of the costs of the capital improvement project .

MSC: To deny the landlord's appeal. (Marshall/Moore: 3-2; Gruber, Murphy dissenting)

MSC: To deny the tenants' appeals. (Murphy/Gruber: 3-2; Marshall, Palma dissenting)

E. 424 Laurel St.

R001-42R

The landlords' petition for certification of capital improvement costs to three units was granted. One tenant appeals the decision, asserting that: the costs incurred by the prior landlord for exterior painting of the building should be disallowed because portico renovation work, including stucco removal, has obliterated the paint job; adequate documentation of the costs of the paint job was not provided by the landlords, as no invoice or contract for the work was submitted; the cost allocation method used by the landlords (square footage) was not proven to be the most equitable, especially since the landlords' architect merely estimated the square footage of the floors in the building, and not the individual units; the hearing officer erred in not considering evidence of the landlords' failure to make requested repairs; and the exterior paint job was routine maintenance, and not a capital improvement.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

F. 2656 Van Ness Ave.

R001-14A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$425.00 due to a bathroom ceiling in disrepair and the loss of the services of a resident manager in this 18-unit building. The landlord appealed the decision, alleging that he had failed to appear at the hearing because he had not received notice. The appeal was accepted and the case was remanded for a new hearing. The Decision on Remand affirms the original decision. The landlord again appeals, asserting that: the hearing officer gave undue weight to

the testimony of the tenant, whose credibility should be suspect because he does not date the notices that he gives to the landlord; the landlord himself served as the resident manager after the death of the building's resident manager; and the repairs to the bathroom ceiling were merely cosmetic and a two to four-week turnaround time for such repairs is reasonable.

MSC: To deny the appeal except for a Technical Correction to the Decision on Remand at page 11, lines 14 and 15, which shall read as follows: "Lack of a resident manager constitutes a substantial decrease in housing services in this case, warranting a reduction of base rent." [additions underlined] (Marshall/Murphy: 5-0)

VI. Communications

The Commissioners received a letter from the tenant at 424 Laurel Street (R001-42R) clarifying points raised in her appeal.

VII. Director's Report

A. Executive Director Grubb informed the Commissioners that, as a result of the discussion of the Mediation Project held at the Board Meeting on September 3, 1996, he contacted Dan Pincetich, Director of the Berkeley Rent Board, regarding their mediation program. Mr. Pincetich informed him that mediation was almost non-existent at the Berkeley Rent Board because they receive very few tenant petitions, and the parties tend to be quite contentious. With regard to landlord petitions, Mr. Pincetich expressed his opinion that there was very little to mediate.

B. Mr. Grubb asked that the Board approve his going before the Board of Supervisors for a supplemental appropriation request for funding of the development of a new database for the department. The department received only one bid on the Specification Document that has been developed, in the amount of \$170,000. The Commissioners expressed their approval and also instructed that the Director request additional temporary hearing officer salaries in order to further reduce the backlog.

VIII. Calendar Items

September 24, 1996 - NO MEETING

October 1, 1996

5 appeal considerations (1 cont. from 9/17/96)

October 8, 1996 - NO MEETING

IX. Adjournment

Commissioner Gruber adjourned the meeting at 8:05 p.m.



SF
R52

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

#1

Tuesday, 5:30 p.m.,
October 1, 1996

25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

10/1/96

AGENDA

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

DOCUMENTS DEPT.

SEP 26 1996

SAN FRANCISCO
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A. 60 Leavenworth St. #34 R001-06R
(cont. from 9/17/96)

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

B. 320 Scott St. R001-15A

The landlord appeals the decision partially granting claims of decreased housing services.

C. 80 - 7th Ave. #3 & #4 R001-43R

The tenant appeals the decision granting rent increases for two units based on comparable rents.

D. 1935 A-2 & 1943 - 15th St. #2 R001-44 & -45R

The decision granting rent increases based on increased operating expenses and capital improvements is appealed by two tenants: one on the grounds of financial hardship; and one who questions whether the allocation of capital improvement costs was proper.

E. 1206 A Fulton St. R001-46R

One tenant appeals the decision partially granting her decreased housing services claim.

VI. Communications

- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



SF
R52

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

#2

Tuesday, October 1, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

10/1/96

DOCUMENTS DEPT.

I. Call to Order

OCT 10 1996

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER

President Becker called the meeting to order at 5:35 p.m.

SAN FRANCISCO
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POLLY MARSHALL
EVERETT Q. MOORE

II. Roll Call

NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

Commissioners Present: Becker; Bierly; Marshall; Palma.
Commissioners not Present: Gruber; Mosser; Murphy; Wasserman.
Staff Present: Grubb; Wolf.

Commissioner Lightner appeared on the record at 5:45 p.m.;
Commissioner Moore arrived at the meeting at 5:50 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 17, 1996 with the following correction: the summary of the appeal concerning the Golden Gateway complex, lines 10 -14, should read as follows: The policy is that management makes a determination as to the need for the work and the resident is informed that the cost of the work may be the subject of a capital improvement passthrough petition, or the tenant is referred to private contractors for performance of the work.
(Palma/Marshall: 3-0)

IV. Remarks from the Public

Gerda Fiske of the Tenants' Network announced that she was in attendance at the meeting in Robert Pender's stead. A landlord in attendance remarked on the fact that no landlord Commissioners had yet arrived at the meeting, and expressed his opinion that no real quorum therefore existed.

V. Consideration of Appeals

A. 60 Leavenworth St. #34

R001-06R
(cont. from 9/17/96)

The tenant's petition alleging substantial decreases in housing services was dismissed due to her failure to appear at the properly noticed hearing. The

tenant filed an appeal five and one-half weeks late, alleging that she missed the hearing because of the hospitalization of her daughter. Staff had requested documentation of the daughter's illness and the reason for the tenant's untimely filing of the appeal, which was not received by the time of the September 17th meeting. However, as the tenant's appeal raised the possibility of a language problem, the Board voted to continue this matter in order for staff to contact the tenant.

MSC: To find good cause for the late filing of the appeal.
(Marshall/Palma: 3-0)

MSC: To accept the appeal and remand the case for a new hearing.
(Marshall/Palma: 3-0)

B. 320 Scott St.

R001-15A

The tenants' petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenants in the amount of \$1,860.00 due to defective windows in three rooms of the unit; lack of a working fireplace; leaks in a porch/utility room area; and a bathroom ceiling with mold and peeling paint. On appeal, the landlord asserts that: pursuant to the lease agreement between the parties, the tenants agreed to rent the premises "as is"; in lieu of work being done on the premises, a 6-month credit off the monthly rent in the amount of \$50.00 was given; the tenants failed to cooperate with attempts to effectuate repairs; and the tenants' continuous requests for unnecessary maintenance and repairs are simply an attempt to avoid paying rent.

MSC: To deny the appeal. (Palma/Marshall: 4-0)

C. 80 - 7th Ave. #3 & #4

R001-43R

This case was continued to the next meeting in order to provide the appellant with audible tapes of the hearing.

D. 1935 A-2 & 1943 - 15th St. #2

R001-44 & -45R

The landlords' petition seeking rent increases for eight units due to increased operating expenses and capital improvement costs was granted, in part. One tenant appeals the decision on the grounds of financial hardship. The tenant in another unit maintains that the costs of new redwood and chain link fences should not be allocated to his unit because these fences close off the parking area from neighboring properties. As the tenant does not park a car on the premises and has no access to this area, he believes that he derives no benefit from these improvements.

MSF: To deny the appeal of the tenant in unit #A2 on the issue of allocation of the capital improvement costs; and to continue the hardship appeal of the tenant in unit #2 in order to obtain

additional information regarding additional income the tenant may receive in the form of tips. (Palma/Lightner: 2-2; Becker, Marshall dissenting)

MSC: To deny the appeal of the tenant in unit #A2 on the issue of the allocation of capital improvement costs. (Palma/Lightner: 4-0)

MSC: To accept the appeal of the tenant in unit #2 and remand the case for a hearing on the tenant's allegation of financial hardship. (Marshall/Becker: 3-1; Lightner dissenting)

E. 1206 A Fulton St.

R001-46R

Three tenant petitions alleging substantial decreases in housing services were granted, in part, by the hearing officer. The landlord was found liable to the tenant in one unit in the amount of \$1,537.50 due to dangerous scaffolding in the front of the building; a leak in the front wall; lack of smoke detectors; and a defective electrical outlet in the kitchen. On appeal, the tenant asserts that she was very nervous at the hearing and mistakenly valued the rent reductions she was seeking at a monthly, rather than weekly, amount; that she should have been reimbursed for the costs of meals during the time she was without a working stove; that she is paying for the costs of the hallway lighting for the entire building; that the electrical wiring in the kitchen is inadequate, for which she should be compensated; and that issues raised at the hearing by other tenants in the building affect her as well.

MSC: To accept the appeal and remand the case for a hearing to determine the amount that the tenant is paying for the common hallway lighting, and to reduce the rent accordingly. All parties are instructed to furnish whatever information and/or documentary evidence may be available, from PG&E or any other source. (Marshall/Becker: 4-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of August.

B. A Memorandum from the Office of the City Attorney concerning election activities by City departments and employees.

VII. Director's Report

Executive Director Grubb reported that Commissioner Wasserman will return at the October 15th Board meeting.

VIII. New Business

The Commissioners received a packet of materials from Senior Hearing Officer Sandra Gartzman in response to the requests of some Commissioners at the September 3rd discussion of the Rent Board's Mediation Project. Included were re-drafted Notices of Mediation Session, which make clear that no one is required to engage in the mediation process, but may elect to arbitrate instead. Additionally, amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21 were drafted to incorporate the mediation process which will, if approved by the Board at the next meeting, be put out for Public Hearing.

IX. Calendar Items

October 8, 1996 - NO MEETING

6:00 October 15, 1996

9 appeal considerations (1 cont. from 10/1/96)
Old Business: Mediation Project

October 22, 1996 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 6:30 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, 6:00 p.m.,
October 15, 1996

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

OCT 10 1996
SAN FRANCISCO
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1st post
10/9/96

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 80 - 7th Ave. #3 & #4

R001-43R
(cont. from 10/1/96)

The tenant appeals the decision granting rent increases to two units based on comparable rents.

B. 4314 - 17th St.

R001-17A

The landlord appeals the decision granting a claim of decreased housing services but finding a failure to repair claim untimely raised.

C. 270 Turk St. #1002

R001-18A

The landlord appeals the decision partially granting claims of decreased housing services.

D. 1600 Larkin St. #104

R001-47R

The tenant appeals the decision granting the passthrough of capital improvement costs.

E. 15 Lapidge St.

R001-19A

The landlord appeals the dismissal of his capital improvement petition due to his failure to appear at the hearing.

F. 2400 Pacific Ave. #702 R001-20A

The landlord appeals the hearing officer's determination regarding the validity of a notice of rent increase issued to one tenant.

G. 515 John Muir Dr. #313 R001-48R

The tenant appeals the denial of his petition alleging substantial decreases in housing services.

H. 3130 Taraval St. R001-21A

The landlord appeals the decision granting rent reductions due to the loss of a parking space.

I. 1624 Alabama St. #A R001-22A

The landlord appeals the decision granting rent reductions due to decreased housing services but denying a claim of unlawful rent increase.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
 - Mediation Project
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD, WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, October 15, 1996 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

I. Call to Order

SHIRLEY A. BIERLY President Becker called the meeting to order at 6:05 p.m.
DAVID GUSTAV GRUBER

II. Roll Call

POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

Commissioners Present: Becker; Bierly; Lightner; Marshall;
Wasserman.
Commissioners not Present: Murphy; Palma.
Staff Present: Grubb; Wolf.

Commissioner Mosser appeared on the record at 6:10 p.m.; Commissioner
Moore appeared at 6:12 p.m.; and Commissioner Gruber arrived at the
meeting at 6:14 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 1, 1996.
(Lightner/Marshall: 3-0)

IV. Consideration of Appeals

A. 80 - 7th Ave. #3 & #4 R001-43R
(cont. from 10/1)

The landlord's petition for rent increases based on comparable rents to two
units rented by the same tenant was granted, and the hearing officer granted a
rent increase from \$50.00 to \$750.00 per month for unit #3 and from \$50.00 to
\$950.00 per month for unit #4. The hearing officer found that the initial rents on
the units were set very low because of a special relationship between the tenant
and the landlord's brother, a prior joint owner, who had created two fraudulent
leases to "loot" the current sole landlord's interest in the property. On appeal,
the tenant asserts that: the hearing officer simply adopted as "facts" the hearsay
allegations contained in the landlord's petition, without supporting evidence,
and that therefore her due process and constitutional rights were violated; the
hearing officer demonstrated bias and prejudice against the tenant in his
conduct of the hearing; the landlord failed to meet the requisite burden of proof
for rent increases based on comparable rents and the tenant has no legal
burden of disproving the claims made in the petition; and the hearing officer

exceeded the bounds of his jurisdiction in making judicial determinations as to matters beyond the scope of the petition before him.

MSC: To deny the appeal. (Lightner/Mosser: 5-0)

B. 4314 - 17th St.

R001-17A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$1,296.25 due to a disconnected wall furnace; ceiling leaks; and limited use of a patio area. The tenant's failure to repair claim was denied because it was untimely failed. On appeal, the landlord asserts that: there is a mathematical error in the calculation of rent overpayments; the source of the ceiling leak was difficult to locate, especially since the upstairs tenant refused to provide access to his unit; and that the same neighboring tenant was responsible for the unsanitary condition of the patio.

MSC: To excuse Commissioner Moore from consideration of this appeal. (Becker/Marshall: 5-0)

MSC: To accept the appeal and remand the case to the hearing officer on the record to issue a Technical Correction to the Decision regarding the amount granted for the disconnected wall furnace; and to cut off the rent reduction for loss of use of the patio as of August 18, 1995. (Becker/Wasserman: 3-2; Gruber, Lightner dissenting)

C. 3130 Taraval St.

R001-21A

The tenant's petition alleging a substantial decrease in housing services was granted and the landlords were found liable to the tenant in the amount of \$1,525.00 due to the loss of use of a parking space for a two and one-half year period. The tenant's failure to repair claim was denied. On appeal, the landlords claim: that the tenant sometimes parked her car in the parking lot during the instant period, and the amount granted should be reduced accordingly; that the landlords thought that the matter was settled, and the tenant's unreasonable delay of over a year in bringing her claim caused them real prejudice; that the tenant parked her car behind other tenants' parking spaces, and therefore the housing service was not decreased; that the tenant's parking behind other tenants' parking spaces made it impossible for the landlords to rent a vacant parking space, resulting in a double loss to the landlords; and that the value of the parking space was less than that assigned by the hearing officer.

MSC: To deny the appeal. (Marshall/Wasserman: 3-2; Gruber, Lightner dissenting)

D. 1600 Larkin St. #104

R001-47R

The landlord's petition for certification of the costs of bathroom renovation necessitated by dry rot was granted, resulting in a capital improvement passthrough in the amount of \$180.70 to the tenant in one unit in the building. On appeal, the tenant alleges that the work was in the nature of repair, and not capital improvement; that he failed to vigorously contest the passthrough at the hearing because he assumed that the hearing officer would agree with his depiction of the work as necessary repairs; and that the work was necessitated by the current landlord's deferred maintenance. The tenant also is concerned that the cost of repairs to the bathroom in the unit above his might have been improperly allocated to his unit.

MSC: To deny the appeal on substantive grounds but to continue this matter until the next meeting in order for staff to contact the tenant and see if he wishes to pursue a hardship appeal.
(Marshall/Wasserman: 5-0)

E. 15 Lapidge St.

R001-19A

The landlord's petition for certification of capital improvement costs was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the landlord alleges that he missed the hearing due to a variety of personal problems, including eviction from his apartment and the fact that he was going through a divorce.

MSC: To accept the appeal and remand the case for a new hearing.
(Marshall/Gruber: 5-0)

F. 2400 Pacific Ave. #702

R001-20A

The landlord's appeal was filed several months late because the landlord's agent had initially submitted a request for a technical correction to the decision. After Rent Board staff informed the landlord that an appeal would be necessary, the appeal was filed 14 days late without explanation.

MSC: To find no good cause for the late filing of the appeal. The Decision of Hearing Officer is therefore final.
(Becker/Marshall: 5-0)

G. 515 John Muir Dr. #313

R001-48R

The tenant's petition alleging substantial decreases in housing services was denied due to the tenant's failure to meet his burden of proof. The tenant, who has filed numerous prior petitions, alleges on appeal that the hearing officer erred in that she did not number the evidence that was submitted at the hearing; and that there are numerous factual and legal errors in the decision, including evidence of racism and discrimination on the part of the hearing officer.

MSC: To deny the appeal. (Lightner/Gruber: 5-0)

H. 1624 Alabama St. #A

R001-22A

The tenant's petition alleging substantially decreased housing services due to numerous habitability defects on the premises was granted, in part, and the landlord was found liable to the tenant in the amount of \$3,062.50. The landlord, who failed to appear at the hearing but sent a representative, asserts on appeal that: he failed to bring evidence in his possession to the hearing because he was not aware that it would be required; the tenant failed to meet her burden of proof regarding the claims raised in the petition and whether or not notice was given to the landlord, only providing uncontradicted testimony; the landlord provided heat to the unit shortly after receiving oral notice of the problem; the tenant was never prevented from using the yard; many of the conditions were caused by the tenant and her children; a bedroom closet was available and simply had some exposed sheet rock, which is not hazardous; pest control was provided to the unit, but the tenant's unsanitary housekeeping practices contribute to the problem; and some of the rent reduction amounts granted are excessive.

MSC: To deny the appeal. (Marshall/Wasserman: 5-0)

V. Communications

In addition to correspondence regarding cases on the calendar, the Commissioners received the following communications:

A. The office workload statistics for the month of September, 1996.

B. A copy of Assembly Bill 3244 (Hawkins), which was approved by the Governor on September 27, 1996, and which amends certain provisions of AB 1164 (Costa-Hawkins) pertaining to a landlord's right to establish an initial rental rate when the original occupants of the unit no longer permanently reside at the dwelling. Staff will provide the Commissioners with a copy of the legislation that is illustrative of the changes made to AB 1164, and this issue will be placed on the calendar for the October 29th meeting for discussion of possible necessary revisions to Rules Section 6.14.

VI. Director's Report

Executive Director Grubb informed the Board that he had spoken with Deborah Hayes, Deputy District Attorney in charge of Special Projects, regarding the activities of that unit regarding the monthly random sample of eviction notices filed with the Board that are referred to that unit. She indicated that her office will prepare a summary of the results to-date of the referrals that have been sent to their office by the Rent Board.

VII. Old Business

The Commissioners discussed a packet of materials prepared by staff pertaining to the Rent Board's Mediation Project, which was discussed at the Board meeting on September 3, 1996. The Notice of Mediation Session and Summary of the Mediation Program currently in use were revised to make it absolutely clear that no one is required to participate in a mediation; and that all parties have the right to elect arbitration instead. Proposed amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21 codifying the Mediation Project will be scheduled for Public Hearing at 6:30 p.m. at the meeting on October 29th, with additional language to make it more clear that parties should come prepared to arbitrate at the date and time of a scheduled mediation session in the event that the responding party fails to appear or the parties fail to come to an agreement.

VIII. Remarks from the Public

The tenant appellee involved in the case at 4314 - 17th St. (R001-17A) informed the Commissioners that she resented what she believed was their trivialization of the issues involved in her case. Robert Pender invited the tenant Commissioners only to the next meeting of the Tenants' Network.

IX. New Business

President Becker informed the Commissioners that he had asked staff to prepare a memo and possible draft language for codification of the Board's Artist Live-Work Policy. This issue will be placed on the Agenda for discussion at the next meeting.

X. Calendar Items

October 22, 1996 - NO MEETING

October 29, 1996

7 appeal considerations

6:30 Public Hearing: Proposed Amendments to Rules Sections 11.15, 11.20 and 11.21 Incorporating Mediation

Old Business:

A. Rules and Regulations Section 6.14 (Assembly Bill 3244)

B. Artist Live-Work Policy

November 5, 1996 - NO MEETING (Election Day)

November 12, 1996 - NO MEETING

XI. Adjournment

President Becker adjourned the meeting at 8:25 p.m.



SF
R52

#1

October 18, 1996

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT.
JOSEPH GRUBB
EXECUTIVE DIRECTOR

OCT 23 1996
SAN FRANCISCO
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10/29/96
Public
Hearing
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Regular
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NOTICE OF PUBLIC HEARING

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

DATE:	<u>October 29, 1996</u>
TIME:	6:30 P.M.
PLACE:	25 VAN NESS AVENUE (AT MARKET ST.) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON THE ATTACHED LANGUAGE REGARDING THE ISSUE(S) BELOW:

AMENDING SECTIONS 11.15, 11.20 and 11.21

PROPOSED AMENDMENTS TO THE RENT BOARD RULES AND REGULATIONS TO IMPLEMENT THE RENT BOARD'S MEDIATION PROGRAM.

Written comments may be sent to the Rent Board. As the Commission often receives many comments, they should be in the office no later than **Thursday October 24, 1996, 5 P.M.**, so that the Commissioners will have time to receive and review them prior to the meeting. **12 copies are requested.** While written comments may be submitted after this date or at the hearing, the opportunity to have your written comments fully considered may be jeopardized. Interested parties will also have an opportunity to comment regarding the amendments during the public hearing. Please note that a three-minute speaking rule may be imposed.





ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

"Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our accessibility hotline at (415) 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals."

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accmgtg

(New text is underlined, ~~[[deleted sections are in double brackets]]~~)

Section 11.15 ~~[[Conciliation]]~~ Mediation

~~[[Immediately prior to the hearing]]~~ ~~[[In any case~~ ~~[[involving failure to maintain and/or decrease in service petitions]]~~ that the Board may deem appropriate, the hearing officer may make an earnest effort to settle the controversy by ~~[[conciliation]]~~ mediation. The parties shall be given written notice of the mediation session in accordance with Sections 11.10 (Time of Hearing; Consolidation) and 11.11 (Notice of Hearing; Response). Section 11.13 governing postponement of hearings shall apply to mediation sessions. Written notice of the mediation session shall explain the following: that participation in a mediation session is voluntary; that a request by any party for an arbitration hearing instead of a mediation session received prior to the scheduled mediation shall be granted and held at the date and time of the scheduled mediation session; that any request by any party for an arbitration hearing instead of a mediation session received after the commencement of the mediation session but before the hearing officer has communicated privately with either party in a caucus shall be granted and held at the date and time of the scheduled mediation session; that an arbitration hearing will be conducted instead of a mediation session if the responding party fails to appear; and that the petition will be dismissed with prejudice if the petitioning party fails to appear. Sections 11.14(b) (Absence of Parties), 11.22 (Personal Appearances and Representation by Agent) and 11.23 (Legal Representation or Assistance of an Interpreter in Certain Cases) shall apply to mediations. If the parties fail to settle their differences through the mediation process, an arbitration hearing may be held at the date and time of the scheduled mediation session, or the petition will be rescheduled in approximately thirty days for an arbitration hearing on the merits, with a

//

//

1 different hearing officer if the hearing officer has communicated privately with
2 either party in a caucus. The hearing officer must fully inform the parties of their
3 rights under the Ordinance before any mediation agreement becomes binding.
4 To the extent possible, mediation agreements shall be self-enforcing. The
5 hearing officer shall not allow any tenant to waive her/his rights to the lawful base
6 rent.

7
8 Section 11.20 Record of Proceedings

9
10 All proceedings before the hearing officer or the Board, except investigatory
11 review of Reports of Alleged Wrongful Eviction and mediation sessions, shall be
12 recorded by tape or other mechanical means. A mediation agreement itself may
13 be recorded by tape. The Board may order a transcript [[thereof]] of a recorded
14 proceeding or mediation agreement, provided the Board makes a copy available
15 to the parties at the parties' expense. A party may order a transcript, provided that
16 such party makes a copy for the Board and offers a copy to the adverse party
17 without charge.

18 Section 11.21 Party Use of Reporter

19
20 A party desiring to preserve a record of a proceeding, except a mediation
21 session, may employ a reporter, provided that copies of any transcript are
22 supplied to the Board and offered to the adverse party or parties without charge.

23 //

24 //

25 //

26 //

jpg/docs/pubhrg/mediation/10/29/96



LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

Residential Rent Stabilization
and Arbitration Board

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 5:30 p.m.,

October 29, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

OCT 23 1996

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- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

A. 1600 Larkin St. #104

R001-47R
(cont. from 10/15/96)

The tenant's appeal of a decision granting a capital improvement passthrough was continued in order for staff to contact the tenant and see if he wished to add a claim of financial hardship.

B. 320 Turk St. #408

R001-23A

The landlord appeals the decision granting a petition for decreased housing services claiming that they failed to appear because the property manager misplaced the Notice of Hearing.

C. 1555 Greenwich St. #11

R001-49R

The tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

D. 2699 Bryant St.

R001-50R

The tenant appeals the decision granting a capital improvement passthrough.

E. 2450 Lake St. #2

R001-52R

The tenant appeals the decision denying most of his claims of decreased housing services.

F. 572 San Jose Ave.

R001-51R

The tenant's appeal of a decision granting a rent increase for a Proposition I Affected Unit based on comparable rents alleges financial hardship and other grounds.

G. 99 Jersey St. #1 - 12 & 14 - 16

R001-24A

The landlord appeals the Decision on Remand Pursuant to Order of the Superior Court which upholds the original Decision's Findings of decreased housing services.

VI. Public Hearing

6:30 Proposed Amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21 Incorporating the Rent Board's Mediation Project

VII. Communications

VIII. Director's Report

IX. Old Business

A. Assembly Bill 3244 (Hawkins): Possible Further Amendments to Rules and Regulations Section 6.14

B. Codification of Artist Live-Work Policy

IV. Remarks from the Public (cont.)

X. New Business

XI. Calendar Items

XII. Adjournment



LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, October 29, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT

NOV 12 1996

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PUBLIC LIBRARY

I. Call to Order

President Becker called the meeting to order at 5:40 p.m.

II. Roll Call

Commissioners Present:

Becker; Bierly; Lightner; Marshall; Moore;
Mosser; Murphy; Palma; Wasserman.

Commissioners not Present:

Gruber.

Staff Present:

Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of October 15, 1996 with the following
typographical correction: In the summary concerning the case
at 4314 - 17th St. (R001-17A), the second sentence should
read as follows: "The tenant's failure to repair claim was
denied because it was untimely filed." (correction underlined)
(Marshall/Wasserman: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network distributed a copy of an "Affordable
Housing" newsletter to the tenant Commissioners only and invited them to
attend the next meeting of the Tenants' Network.

V. Consideration of Appeals

A. 1600 Larkin St. #104

R001-47R
(cont. from 10/15/96)

The landlord's petition for certification of the costs of bathroom renovation
necessitated by dry rot was granted, resulting in a capital improvement
passthrough in the amount of \$180.70 to the tenant in one unit in the building.
On appeal, the tenant alleged that the work was in the nature of repair, and not
capital improvement; that he failed to vigorously contest the passthrough at the
hearing because he assumed that the hearing officer would agree with his
depiction of the work as necessary repairs; and that the work was necessitated



by the current landlord's deferred maintenance. Since the tenant had expressed concern at the hearing over his ability to pay the passthrough, and stated in his appeal that he is a senior citizen, at the meeting on October 15th the Commissioners denied the appeal on substantive grounds but continued the matter in order to staff to contact the tenant and see if he wished to pursue a hardship appeal. As the tenant failed to submit a Hardship Application, no further action was taken regarding this case.

B. 320 Turk St. #408

R001-23A

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$765.00 due to a lack of heat; mold, mildew and dampness on the walls of the unit; and sporadic elevator service. The landlord failed to appear at the hearing and alleges on appeal that this was due to the Notice of Hearing having been lost by a new property manager his first week on the job. The landlord accepts the majority of the hearing officer's findings but asks that the Board reduce the amount of the rent reduction for the lack of heat because the repair was effectuated as of November 22, 1995, rather than the end of December.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

C. 1555 Greenwich St. #11

R001-49R

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses for ten of twelve units in the building was granted. One tenant appeals the decision, alleging financial hardship. The Commissioners had several questions regarding the information provided in the tenant's Hardship Application and continued consideration of this case to the next Board meeting in order for staff to contact the tenant.

D. 2699 Bryant St.

R001-50R

The landlords' petition for certification of capital improvement costs was granted, in part, resulting in a passthrough in the amount of \$124.07 to one unit in the building. The tenant of that unit appeals, asserting that: the majority of the work performed was necessitated by the negligence of upstairs tenants who have since vacated the unit; repeated water leakages from the upstairs tenants resulted in deferred maintenance resulting in code violations; tenants should not be responsible for paying for work necessary for habitability; certain of the costs for the work are unreasonably high; the heating system purchased by the landlord is unnecessarily elaborate and a luxury item; and that there has been a decrease in housing services due to the conditions that necessitated the work. The tenant appellant did not appear at the hearing and claimed on appeal that he is a City Housing Inspector and was required to testify in Superior Court on the day of the hearing. The Commissioners continued this matter in order for staff to contact the tenant and ask him to provide documentation of the court appearance; an explanation as to why he failed to request a postponement of the hearing; and the reason why his wife also failed to appear.

E. 2450 Lake St. #2

R001-52R

The tenant's petition alleging substantial decreases in housing services was denied, for the most part, except for a \$10 per month rent reduction for a two-month period due to a broken bedroom light switch. The parties have been involved in numerous prior cases in which rent reductions were granted for pest infestation and drainage problems in the unit, which were found to have been abated by the landlord. In the instant petition, the tenant raised these problems again but the hearing officer found that there was no evidence to prove that the problems had not been corrected or had resurfaced. On appeal, the tenant maintains that there are still problems with cockroaches, sewage backup and blocked drains.

MSC: To accept the appeal and remand the case to a different hearing officer for a new hearing. (Marshall/Becker: 5-0)

F. 572 San Jose Ave.

R001-51R

This case involves a Proposition I Affected Unit. The tenant's petition alleging unlawful increases in rent due to capital improvement passthroughs not having been discontinued and having been improperly included in base rent was denied due to the equitable defense of laches; the hearing officer found that the tenant had been a party to the capital improvement certification proceedings and had waited too long to assert this claim. The landlord's petition for a rent increase based on comparable rents was granted, resulting in a rent increase for the unit in the amount of \$312.60 (from \$339.00 to \$651.60). On appeal, the tenant asserts that the hearing officer erred and abused her discretion in the following respects: since the landlord did not make the building his principal place of residence in good faith and with honest intent, this is not a Proposition I Affected Unit; since the tenant's family has occupied the unit since 1966, tenancies commencing prior to 1979 should have been considered; the tenant's comparables evidence, including comparison of the subject unit to itself, was superior to that provided by the landlord; the delays in scheduling of the hearing and issuance of the decision were prejudicial to the tenant; laches should not apply, since the tenant did not know that the capital improvement passthrough should have been discontinued and the landlord has unclean hands; and the decision creates a financial hardship for the tenant, especially considering the large retroactive amount owed.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Lightner/Palma: 5-0)

MSF: To accept the appeal and remand the case for a new hearing on the issues of: whether the landlord resided in the unit in good faith such that this is a Proposition I Affected Unit; laches, because the notices of rent increase didn't separate out the capital improvement passthrough amounts; rents for comparable units prior to 1979; and tenant hardship, if

necessary. (Marshall/Moore: 2-3; Lightner, Mosser, Palma dissenting)

MSF: To accept the appeal and remand the case for a hearing on the issue of tenant hardship. (Lightner/Mosser: 4-1; Palma dissenting)

MSC: To reconsider the prior motion because Commissioner Marshall mis-heard the motion and misunderstood what was being voted on. (Marshall/Moore: 3-2; Lightner, Mosser dissenting)

MSF: To accept the appeal and remand the case for a hearing on the issue of tenant hardship. (Mosser/Lightner: 2-3; Marshall, Moore, Palma dissenting)

MSC: To accept the appeal and remand the case for a hearing on the issue of tenant hardship; and to state that, in similar cases, the issue of good faith owner occupancy and ulterior motive shall be examined in determining whether the unit qualifies as Proposition I Affected. (Palma/Marshall: 3-2; Lightner, Mosser dissenting)

G. 99 Jersey St. #1 - 12 & 14 - 16

R001-24A

This case involves 19 tenant petitions alleging decreased housing services due to inadequate heat, which was remanded pursuant to the Order of the Superior Court. In the original decision in this case, the hearing officer granted rent reductions in the amounts of either \$100 or \$125 for the winter months from November 1992 and on-going because the majority of the tenants had proved that, although the heating sources provided by the landlords were in compliance with code requirements, the amount of heat generated was insufficient. The landlord's appeal, which was denied by the Rent Board Commissioners, asserted that the hearing officer's finding that the heat was inadequate was contradicted by the sworn deposition of a building inspector; that rent reductions were inappropriate because there was no violation of health or safety codes; and that the decision promulgates confusion because the landlords have no way of knowing what would be considered adequate under the circumstances. Upon the landlord's Writ of Administrative Mandamus having been granted, the case was remanded to the hearing officer by the Board "for consideration, upon the record or after a hearing, of the August 2, 1994 deposition of David Gogna and to determine the amounts owed, if any."

In the instant decision, the hearing officer found that the deposition of the housing inspector shed little light on the matter, nor did it persuade her to rule differently, and the rent reductions granted in the original decision were upheld. The landlord appeals the Decision on Remand, asserting that: the hearing officer should have taken the fact that roofing insulation has been added to the building into account in determining the sufficiency of heat; the requirement that

these landlords do more than comply with City housing codes constitutes disparate treatment; the hearing officer gave great credence to the tenants' expert witness, who is unfamiliar with San Francisco code requirements, but gave little consideration to the landlords' witness, a City building inspector; and the commencement date for the rent reductions should be February, 1993, rather than the fall of 1992, since that is when the Department of Building Inspection re-opened the case and the owners received notice that there was a problem with heat adequacy.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Lightner, Mosser dissenting)

VI. Public Hearing

From 8:50 to 8:51 p.m., the Board held a Public Hearing regarding proposed amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21, which would codify the Board's Mediation Project. Only Robert Pender of the Tenants' Network testified, stating that he believed that the Regulations should specifically say "mediate in good faith."

VII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. Re-drafted Notice of Mediation Session and Summary of the Mediation Program and revisions to Rules Sections 11.15, 11.20 and 11.21 codifying the Mediation Project.
- B. A letter from Janan New, Executive Director of the San Francisco Apartment Association, expressing that organization's support for the Rent Board's Mediation Project.
- C. A copy of Assembly Bill 3244 (Hawkins), which amends Assembly Bill 1164 (Costa-Hawkins), showing the changes effectuated by the recently enacted legislation.

VIII. Old Business

A. Mediation Project

The Commissioners continued their discussion of the Rent Board's Mediation Project and requested that the Notice of Mediation Session and Rules and Regulations be revised to make it clear that if a mediation is unsuccessful, the case will go to arbitration with a different Hearing Officer. Additionally, Commissioner Becker requested monthly statistics showing settlement outcomes, particularly the number of decrease in services petitions that are settled without monetary reimbursement to the tenant. It was agreed that, in cases where settlements include an agreement to vacate by the tenant, there

will be a one week "cooling-off period" during which the tenant can change his or her mind; and all adult occupants of a unit must sign any such agreement. Staff will incorporate the above agreements into the Executive Summary of the Mediation Project and provide draft language to effectuate the "cooling-off period" for the Board's approval at the next meeting.

IX. Director's Report

Executive Director Grubb reported as follows:

- A. There have been problems with the Rent Board's automated voicemail system for the past week, which have led to gaps in service and frustration for the public and staff alike.
- B. The Mayor's Office has provided all Commissioners with a Notification of Absence form which should be completed and provided to the Mayor's Office any time they will be out of State.
- C. Debra Hayes, Chief of the Special Prosecutions Unit of the District Attorney's Office, provided the Board with a written summary of their office's involvement in Rent Board referrals regarding eviction cases and Molinari notice filings.

VIII. Old Business (cont.)

Due to the lateness of the hour, the issues of possible further amendments to Rules Section 6.14 necessitated by the passage of AB 3244 and codification of the Board's Artist Live/Work Policy were continued to the next meeting.

IV. Remarks from the Public (cont.)

Miguel Wooding stated his belief that any agreement to vacate a unit should be tenant-initiated in the context of a mediated agreement. A landlord expressed concern regarding the "illegal" vote that was taken concerning the appeal of 572 San Jose Ave. (R001-51R) in that a motion was made and carried, but the vote was subsequently reconsidered and overturned.

IX. Calendar Items

November 5 & 12, 1996 - NO MEETINGS

November 19, 1996 (6:00 p.m.)

6 appeal considerations (2 cont. from 10/29/96)

Old Business:

- A. Mediation Project
- B. Rules and Regulations Section 6.14 (Assembly Bill 3244)
- C. Artist Live/Work Policy

November 26, 1996 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 10:15 p.m.



NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, 6:00 p.m.,

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

November 19, 1996
25 Van Ness Avenue, #70, Lower Level

AGENDA

I. Call to Order

DOCUMENTS DEPT.

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER

II. Roll Call

NOV 12 1996

Four Copy
1st Postal
11/8/96

POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER

III. Approval of the Minutes

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PUBLIC LIBRARY

BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

IV. Remarks from the Public

V. Consideration of Appeals

A. 1555 Greenwich St. #11

R001-49R
(cont. from 10/29/96)

The tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

B. 2699 Bryant St.

R001-50R
(cont. from 10/29/96)

The tenant appeals the decision granting a capital improvement passthrough.

C. 50 Turk St. #40

R001-53R

The tenant appeals the dismissal of a petition alleging decreased housing services due to failure to appear at the hearing.

D. 640 Clay St. #111

R001-54R

The tenant appeals the denial of a petition alleging decreased housing services due to loss of quiet enjoyment of the unit.

E. 640 Clay St. #118

R001-55R

The tenant appeals the dismissal of a petition alleging decreased housing services, failure to repair and unlawful rent increase due to failure to appear at the hearing.



F. 666 Greenwich St.

R001-56R

The tenant appeals the dismissal of a petition alleging decreased housing services due to failure to appear at the hearing.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Mediation Project: Proposed Amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21

B. Assembly Bill 3244 (Hawkins): Possible Further Amendments to Rules and Regulations Section 6.14

C. Codification of Artist Live/Work Policy

IV. Remarks from the Public (cont.)

IX. New Business

X. Calendar Items

XI. Adjournment



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, November 19, 1996 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT

NOV 27 1996

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I. Call to Order

SHIRLEY A. BIERLY

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

President Becker called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present:

Becker; Bierly; Gruber; Marshall; Mosser;
Murphy; Wasserman.

Commissioners not Present:

Lightner; Moore; Palma.

Staff Present:

Grubb; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of October 29, 1996 with the following
correction: that a motion was made and carried to recuse
Commissioner Murphy from consideration of the appeal
concerning 1555 Greenwich St. #11 (R001-49R).
(Becker/Marshall: 5-0)

IV. Remarks from the Public

A. Landlord Glen Hildebrand asked if there was a problem with the
posting of the Rent Board Minutes on the Internet, since the Minutes of the
October 29th meeting were not up on the web site as of yet. He also
remarked on his pleasure at Commissioner Wasserman being the voting
neutral at the meeting, since he believes that Commissioner Palma has
voted with the tenants 80 - 85% of the time.

B. Robert Pender invited all of the Commissioners to the next meeting of
the Tenants' Network and wished the Minutes to reflect the passing of Faye
Lacey, a great champion of tenants' rights.

V. Consideration of Appeals

A. 1555 Greenwich St. #11

R001-49R

(cont. from 10/29/96)

The landlord's petition for certification of capital improvement costs and rent increases based on increased operating expenses for ten of twelve units in the building was granted. One tenant appealed the decision, alleging financial hardship. At their meeting on October 29th, the Commissioners had several questions regarding the information provided in the tenant's Hardship Application and continued consideration of this case in order for staff to request clarification from the tenant, which was provided.

MSC: To deny the appeal. (Gruber/Wasserman: 3-1; Marshall dissenting)

B. 2699 Bryant St.

R001-50R
(cont. from 10/29/96)

The landlords' petition for certification of capital improvement costs was granted, in part, resulting in a passthrough in the amount of \$124.07 to one unit in the building. The tenant of that unit appealed the decision, asserting that: the majority of the work performed was necessitated by the negligence of upstairs tenants who have since vacated the unit; repeated water leakages from the upstairs tenants resulted in deferred maintenance resulting in code violations; tenants should not be responsible for paying for work necessary for habitability; certain of the costs for the work are unreasonably high; the heating system purchased by the landlord is unnecessarily elaborate and a luxury item; and that there has been a decrease in housing services due to the conditions that necessitated the work. The tenant appellant did not appear at the hearing and claimed on appeal that he is a City Housing Inspector and was required to testify in Superior Court on the day of the hearing. At their meeting on October 29th, the Commissioners continued this matter in order for staff to contact the tenant and ask him to provide: documentation of the court appearance; an explanation as to why he failed to request a postponement of the hearing; and the reason why the co-tenant in the unit also failed to appear.

MSF: To deny the appeal. (Gruber/Murphy: 2-3; Becker, Marshall, Wasserman dissenting)

MSC: To accept the tenant's appeal and remand the case for a new hearing with the same hearing officer; the scheduling of the remand hearing will be at the convenience of the landlord and the landlords' witnesses, if any. (Wasserman/Marshall: 3-2; Gruber, Murphy dissenting)

C. 50 Turk St. #40

R001-53R

The tenant's petition alleging a substantial decrease in housing services was dismissed due to his failure to appear at the hearing. The tenant appeals the dismissal, alleging that he failed to receive notice of the hearing because it was sent to a post office box that he had not had the use of since February. However, the tenant's petition was filed in July, and he had requested that the Rent Board use the post office box as his mailing address in September.

MSC: To deny the appeal. (Gruber/Murphy: 5-0)

D. 640 Clay St. #111

R001-54R

The tenant's petition alleging substantially decreased housing services due to noise emanating from the unit above hers was denied because the tenant failed to prove that the level of noise was above that to be reasonably expected in a multi-unit building. On appeal, the tenant asserts that she provided sufficient documentation of the noise problem to meet her burden of proof; and that regulations regarding noise in residential hotels are stricter than those for apartment buildings.

MSC: To deny the appeal. (Wasserman/Gruber: 5-0)

E. 640 Clay St. #118

R001-55R

The tenant's petition alleging decreased housing services, failure to repair and unlawful oral notices of rent increase was dismissed due to her failure to appear at the properly noticed hearing. The tenant had requested a postponement of the hearing due to the death of her father, the need for more time to gather documentation in support of her case, and various medical conditions; the postponement request was denied. The tenant maintains that her appeal of the dismissal was filed two months late because of numerous medical difficulties, including the fact that she is visually impaired.

MSC: To deny the appeal. (Gruber/Murphy: 3-2; Becker, Marshall dissenting)

F. 666 Greenwich St.

R001-56R

The tenant's petition alleging a substantial decrease in housing services was dismissed due to his failure to appear at the hearing. On appeal, the tenant alleges that he failed to receive notice of the hearing because the master tenant has the key to the mail box and therefore control over delivery of his mail.

MSC: To accept the appeal and remand the case for a new hearing; staff will make every effort to ensure that the tenant receives the Notice of Hearing. (Marshall/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. The latest draft of legislation proposed by Supervisor Yaki which would amend Ordinance Section 37.9(a)(8) concerning owner move-in evictions.

B. A letter from landlord Stephanie Munoz stating her belief that it is unduly punitive to change the anniversary date if a landlord skips a few months before imposing the allowable annual increase.

C. The office workload statistics for the month of October, 1996.

D. A letter from Michele Sutton, Investigator for the State Bar of California, regarding the Board's referral of Attorney David Dawson for investigation of questionable business practices.

VII. Director's Report

Executive Director Grubb reported as follows:

A. Deputy City Attorney Mariam Morley will no longer be assigned to the Rent Board, and will be replaced by Deputy City Attorney Amy Ackerman.

B. Legislation proposed by Supervisor Yaki pertaining to owner move-in evictions passed out of the Housing and Land Use Committee without recommendation and will be considered by the full Board of Supervisors on December 9, 1996.

C. Deputy Director Wolf provided the Board with a report regarding pending litigation.

VIII. Old Business

Mediation Project

The Commissioners received a November 19th Memorandum from Senior Hearing Office Sandy Gartzman to the hearing officers providing additional guidelines for how agreements for tenants to vacate a unit are to be handled by the mediator. Additionally, the Commissioners were given re-drafted amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21, which codify the Rent Board's Mediation Project.

MSC: To adopt the amendments to Rules and Regulations Sections 11.15, 11.20 and 11.21 which serve to codify the Rent Board's Mediation Project. (Becker/Marshall: 5-0)

Discussion of possible further amendments to Rules Section 6.14 necessitated by the passage of AB 3244 and codification of the Board's Artist Live/Work Policy were continued to a future meeting.

IV. Remarks from the Public (cont.)

C. An individual expressed an interest in the mediation process, remarking that there was "too much deliberation" at the Board level.

D. Landlord Glen Hildebrand commented that Commissioner Wasserman was a "breath of fresh air"; and stated that Commissioner Palma should recuse herself due to the "appearance of impropriety."

E. Robert Pender of the Tenants' Network requested that information on the Mediation Project be made available and was informed that this has already been done.

IX. Calendar Items

November 26, 1996 - NO MEETING

December 3, 1996

4 appeal considerations

Old Business: AB 3244

December 10, 1996 - NO MEETING

X. Adjournment

President Becker adjourned the meeting at 7:45 p.m.



SF
R52
#1
12/3/96

NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, 5:30 p.m.,
December 3, 1996
25 Van Ness Avenue, #70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

AGENDA

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

A. 726 Fillmore St. #2 R001-57R

The tenant appeals the dismissal of her petition because she had requested arbitration instead of mediation and, therefore, failed to appear at the hearing.

B. 1190 York St. R001-58R

The tenant appeals the dismissal of a petition alleging failure to repair due to non-appearance at the hearing.

C. 1690 North Point #104 R001-25A

The landlord appeals the decision granting rent overpayments due to charges for a parking space for a motorcycle not previously imposed.

D. 901 Pine St. R001-59R

The tenant appeals the dismissal of a petition alleging decreased housing services due to failure to appear at the hearing.

- VI. Communications
- VII. Director's Report
- VIII. Old Business

Assembly Bill 3244 (Hawkins): Possible Further Amendments to Rules and Regulations Section 6.14

- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment

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ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make a sound enhancement system available at the meeting. Please contact the Rent Board at 252-4648 at least 72 hours prior to the meeting. Late requests will be honored if possible.

The Rent Board will make every effort to accommodate requests to make meeting minutes available in alternative formats. If you require the use of a reader during the meeting, please contact the Rent Board at 252-4648, at least 72 hours in advance of need. Late requests will be honored if possible.

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Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. Accessible MUNI lines serving this location are the 42 Downtown Loop, the 71 Haight/Noriega and the MUNI Metro at Van Ness and Market Street. For information about MUNI accessible services call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force at 554-6075.

(11/95) lk/comm/accmgtg



MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, December 3, 1996 at 5:30 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT.

DEC 12 1996
SAN FRANCISCO
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I. Call to Order

SHIRLEY A. BIERLY President Becker called the meeting to order at 5:45 p.m.

DAVID GUSTAV GRUBER

POLLY MARSHALL

EVERETT Q. MOORE

NEVEO MOSSER

BARTHOLOMEW MURPHY

NELI NIMA PALMA

SHARON K. WASSERMAN

II. Roll Call

Commissioners Present:

Becker; Gruber; Lightner; Marshall;
Mosser; Wasserman.

Commissioners not Present:

Bierley; Moore; Murphy; Palma.

Staff Present:

Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of November 19, 1996.
(Marshall/Wasserman: 5-0)

IV. Remarks from the Public

Robert Pender of the Tenants' Network informed the Board members that pending legislation regarding amendments to Ordinance Section 37.9(a)(8) pertaining to owner move-in evictions will go before the full Board of Supervisors on Monday, December 9th. Landlord Glen Hildebrand asked whether the Board had available statistical information pertaining to the number of evictions for owner occupancy.

V. Consideration of Appeals

A. 726 Fillmore St. #2

R001-57R

The tenant's petition alleging a substantial decrease in housing services without a corresponding decrease in rent was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant explains that she had sent in a written request for arbitration instead of mediation, and therefore assumed that the scheduled mediation session would be taken off calendar.

MSC: To accept the appeal and remand the case for a new hearing.
(Marshall/Gruber: 5-0)

B. 1190 York St.

R001-58R

The tenant's petition alleging the landlord's failure to repair was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims that she did not receive the Notice of Hearing, and attaches a supporting Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.
(Wasserman/Marshall: 5-0)

C. 1690 North Point #104

R001-25A

The tenant's petition alleging an unlawful increase in rent was granted. A \$60.00 charge for motorcycle parking which had previously been included in the rent was ordered refunded, resulting in the landlord being held liable to the tenant in the amount of \$360.00. On appeal, the landlord asserts that the hearing officer placed too much weight on a letter from the prior building manager with whom he was on bad terms; and that there was conflicting testimony as to where the tenant had traditionally parked his motorcycle.

MSC: To deny the appeal. (Marshall/Wasserman: 3-2; Gruber, Lightner dissenting)

D. 901 Pine St.

R001-59R

The tenant's petition alleging substantially decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant alleges that she failed to receive the Notice of Hearing, and attaches the requisite Declaration.

MSC: To accept the appeal and remand the case for a new hearing; staff will attempt to accommodate the landlord in re-scheduling. (Marshall/Wasserman: 5-0)

VI. Communications

The Commissioners received a letter from Walter Johnson, Secretary of the San Francisco Labor Council, encouraging them to be particularly generous with their charitable contributions this Holiday Season.

VII. Old Business

The Commissioners briefly discussed whether the passage of Assembly Bill 3244 (Hawkins) necessitated any further amendments to Rules and Regulations Section 6.14. Commissioner Wasserman questioned whether Section 4 of the Rules, pertaining to rent increases not requiring approval from the Board, should also be amended to reflect the fact that a change in roommates can be grounds for rent increase under certain circumstances. Deputy Director Wolf will contact Deputy City Attorney Amy Ackerman and ask her to contact

Commissioner Wasserman to discuss this issue and report back to the full Board.

IV. Remarks from the Public (cont.)

Landlord Glen Hildebrand expressed his opinion that Rules Section 6.14 is so confusing that it should be "thrown out." He also commented that, in their determination of an appeal on tonight's calendar, the Board had sent a message to landlords that favors done for tenants will come to be viewed as "housing services." A landlord in attendance inquired as to whether one could file a petition for a determination as to whether vacancy decontrol had been triggered in a revolving roommate situation.

VIII. Calendar Items

December 10, 1996 - NO MEETING

December 17, 1996 (6:00 p.m.)

5 appeal considerations

Old Business:

- A. Rules and Regulations Section 6.14 (Assembly Bill 3244)
- B. Artist Live/Work Policy

The Board's Christmas Party will be held at the home of Commissioner Wasserman on December 22nd at 4:00 p.m.

IX. Adjournment

President Becker adjourned the meeting at 6:45 p.m.



**NOTICE OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,**

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

MERRIE T. LIGHTNER
VICE-PRESIDENT

JOSEPH GRUBB
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,
December 17, 1996

25 Van Ness Avenue, #70, Lower Level

AGENDA

I. Call to Order

DOCUMENTS DEPT.

SHIRLEY A. BIERLY
DAVID GUSTAV GRUBER

II. Roll Call

DEC 12 1996
SAN FRANCISCO
PUBLIC LIBRARY
For Copy
1st floor
12/11/96

POLLY MARSHALL
EVERETT Q. MOORE

III. Approval of the Minutes

NEVEO MOSSER

BARTHOLOMEW MURPHY

IV. Remarks from the Public

NELI NIMA PALMA

SHARON K. WASSERMAN

V. Consideration of Appeals

A. 3130 Taraval St. #4

R001-26A

The landlord appeals the portion of the decision that determines that a notice of rent increase based on increased operating expenses was improperly served.

B. 730 Stockton St. #6

R001-27A

The landlord appeals the decision granting refund of rent overpayments due to capital improvement passthroughs not having been discontinued.

C. 170 Highland Ave.

R001-28A

The landlord appeals the decision granting rent reductions due to decreased housing services, alleging that he failed to receive notice of the hearing.

D. 1393 Goettingen St.

R001-60R

The tenant appeals the decision granting a capital improvement passthrough on the grounds of financial hardship.

E. 705 Shotwell St. #A

R001-29A

The landlord appeals the decision partially granting claims of decreased housing services.

VI. Communications

- VII. Director's Report
- VIII. Old Business
 - A. Assembly Bill 3244 (Hawkins): Possible Further Amendments to Rules and Regulations Section 6.14
 - B. Codification of Artist Live/Work Policy
- IV. Remarks from the Public (cont.)
- IX. New Business
- X. Calendar Items
- XI. Adjournment



MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD,

WILLIE L. BROWN, JR.
MAYOR

LARRY BEACH BECKER
PRESIDENT

Tuesday, December 17, 1996 at 6:00 p.m. at
25 Van Ness Avenue, Suite 70, Lower Level

JOSEPH GRUBB
EXECUTIVE DIRECTOR

MERRIE T. LIGHTNER
VICE-PRESIDENT

DOCUMENTS DEPT.

I. Call to Order

DEC 23 1996

SHIRLEY A. BIERLY President Becker called the meeting to order at 6:05 p.m.

SAN FRANCISCO
PUBLIC LIBRARY

DAVID GUSTAV GRUBER
POLLY MARSHALL
EVERETT Q. MOORE
NEVEO MOSSER
BARTHOLOMEW MURPHY
NELI NIMA PALMA
SHARON K. WASSERMAN

II. Roll Call

Commissioners Present: Becker; Bierly; Lightner; Marshall; Palma;
Wasserman.
Commissioners not Present: Moore; Mosser; Murphy.
Staff Present: Grubb; Wolf.

Commissioner Gruber appeared on the record at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of December 3, 1996.
(Marshall/Lightner: 4-0)

IV. Remarks from the Public

Robert Pender announced that the Tenants' Network will be having a fourth birthday party on Friday, January 24, 1997 at 6:00 p.m. at the Unitarian Church at Franklin and Geary.

V. Consideration of Appeals

A. 3130 Taraval St. #4

R001-26A

The landlord's petition for a rent increase based on increased operating expenses was granted. However, the hearing officer found that the increase was not effective on the date specified in the notice, because the tenant credibly testified that he had not received the notice and the landlord failed to comply with Code of Civil Procedure Section 1162 in service of the notice. An annual increase that was paid by the tenant because it was his "anniversary date" was allowed as of the date the tenant commenced payment. On appeal, the landlord maintains that the posting requirement of CCP Section 1161 is only applicable to judicial proceedings; that service by regular and certified mail should have been sufficient and the fact that the tenant failed to claim the certified letter is outside of the landlord's control; and the fact that the tenant



paid the operating expense portion of the increase is evidence that the notice was received.

MSC: To accept the appeal and remand the case on the record on the issues of whether there was actual notice and, if so, the legal effect thereof; and to determine whether the tenant commenced paying the increase in March or April.
(Becker/Lightner: 5-0)

B. 730 Stockton St. #6 & #34

R001-27A

The tenants' petitions alleging overpayments in rent due to capital improvement passthroughs having been improperly included in base rent and not having been discontinued upon amortization were granted and the landlord was found liable to the tenants in the amounts of \$1,120.43 and \$703.96. On appeal, the landlord asserts that the tenants' petitions should be denied due to laches, as the tenants waited an unreasonable period of time before filing; not all banked increases that the landlord was entitled to were identified or calculated correctly; the systematic pattern of rounding increases up and down should serve to explain and excuse the excessive rent increases; the tenants' conduct made it impossible for the landlord to correctly calculate the appropriate amount of rent increases; and the hearing officer was biased against the landlord.

MSC: To deny the appeal, except for the Technical Correction that will be issued by the Hearing Officer. (Marshall/Becker: 5-0)

C. 170 Highland Ave.

R001-28A

The tenants' petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenants in the amount of \$4,080.00 due to many serious habitability defects on the premises. The landlord failed to appear at the properly noticed hearing and alleges on appeal, under penalty of perjury, that he failed to receive notice of the hearing. The landlord also claims on appeal that he has substantially complied and rectified many of the conditions about which the tenants complained.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing. (Lightner/Gruber: 5-0)

D. 1393 Goettingen St.

R001-60R

The landlord's petition for certification of costs incurred in painting this single family dwelling was granted, resulting in a monthly passthrough in the amount of \$20.00. The tenants appeal the decision on the grounds of financial hardship. Since the tenant's wife failed to fill out a separate "Hardship Application", it was the consensus of the Board to continue this case to the next meeting in order for staff to contact the tenants.

E. 705 Shotwell St. #A

R001-29A

The tenant's petition alleging substantial decreases in housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$482.50 due to substandard conditions on the premises. The landlord failed to appear at the properly noticed hearing and alleges on appeal that he failed to receive notice of the hearing. The landlord also maintains that certain of the problems are the fault of the tenant; that he has received no other complaints from occupants of the building; and that many of the conditions have been remedied.

MSC: To accept the appeal and remand the case to the same hearing officer for a new hearing. (Lightner/Becker: 5-0)

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A letter from the State Bar regarding their referral of Attorney David Dawson for questionable business practices, stating that their investigation is in abeyance pending the resolution of litigation regarding a claim of wrongful eviction. President Becker will follow up with a phone call.

B. Notice that the allowable annual rent increase as of March 1, 1997 through February 28, 1998 will be 1.8%.

C. A Memorandum from Senior Hearing Officer Sandy Gartzman regarding the office's mediation statistics for the months of October and November, 1996. Of the mediations actually conducted in November, 88% resulted in settlement.

VII. Director's Report

In the absence of Executive Director Grubb, Deputy Director Wolf informed the Board that the last 5:30 Board meeting will be on January 7, 1997. After that date, commencing with the meeting on January 21, 1997, all meetings will begin at 6:00 p.m. Additionally, a Supplemental Budget Request for database development and temporary salaries passed its first reading before the full Board of Supervisors on Monday, December 16th.

VIII. Old Business

A. Assembly Bill 3244 (Hawkins)

Commissioner Wasserman reported back to the Board regarding her examination of issues raised by the passage of Assembly Bill 3244 (Hawkins) and stated that, in her, the Deputy Director and lobbyist Christine Minnehan's

options, Rules and Regulations Section 6.14 did not require any further amendment(s) at this time. The other Commissioners concurred.

B. Codification of Artist Live/Work Policy

The Board briefly discussed a Memorandum prepared by the Deputy Director at the request of Commissioner Becker regarding possible codification of the Board's Artist Live/Work Policy, adopted on January 24, 1982. The Commissioners discussed several ancillary issues, including: the policy reason(s) behind the prohibition of buildings that qualify under the substantial rehabilitation provisions of the Ordinance qualifying for exemption under the Live/Work criteria; whether individual units can be exempted from the provisions of the Ordinance, or if exemption of the whole building is necessary; examination of "prior residential use" in this and the new construction exemption contexts; and concerns over sanctioning substandard housing raised in a Memo from Commissioner Murphy. Discussion of this issue will be continued at the January 7, 1997 meeting.

IV. Remarks from the Public (cont.)

Bill Quan, the landlord involved in the case at 730 Stockton Street #6 (R001-27A), addressed the Board regarding his disappointment at the denial of his appeal. He also expressed his opinion that the Costa-Hawkins legislation is quite clear (Assembly Bill 1164), and that there is no need for the Board to re-write Rules and Regulations Section 6.14.

IX. Calendar Items

December 24 & 31, 1996 - NO MEETINGS (Happy Holidays!)

January 7, 1997 - 5:30 p.m.

8 appeal considerations (1 cont. from 12/17/96)

Old Business: Codification of Artist Live/Work Policy

X. Adjournment

President Becker adjourned the meeting at 7:40 p.m.



